

1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY

10
11 OHIO PETITION REVIEW
12 PUBLIC MEETING

18
19
20 Tuesday, November 13, 2001
21 Afternoon Session
22 Venice Room

23 Holiday Inn
24 175 Hutchinson Avenue
Columbus, Ohio 43085

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 Moderator: Mr. Rafael P. Gonzalez, U.S. EPA
2 Presenter: Mr. Bertram Frey, U.S. EPA
3 Panel: Mr. Willie Harris, U.S. EPA
4 Ms. Jo-Lynn Traub, U.S. EPA
5 Ms. Cheryl Newton, U.S. EPA
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1	INDEX OF SPEAKERS	
	COMMENT PERIOD	
2		
	Mary Gibson	27
3	Elizabeth Chumlea	30
	Vanessa Stewart	32
4	Freida Schott	32
	Theresa Mills	36
5	Georgie Schott	40
	Laura Duncan	44
6	Karen Arnett	46
	Sandy Buchanan	49
7	Freida Schott	52
	Mary Jo Muser	54
8	Jill Vanvoorhis	58
	Kurt Keljo	63
9	Audience Member	65
	Bob Hyland	68
10	Sue Lyons	70
	Trish Lanahan	72
11	Janet Lambert	75
	Bill Resch	76
12	Larry Pugh	79
	Kenneth Conley	81
13	Cathy Remias	86
	Audience Member	88
14	Skip Hall	90
	Jeff Godden	92
15	Don Fuchs	95
	Audience Member	96
16		
17		
18		
19		
20		
21		
22		
23		
24		

1	INDEX OF SPEAKERS	
2	QUESTION AND ANSWER PERIOD	
3	Mary Ann Baker	102
	Theresa Mills	105
4	Stephen Gabor	109
	Alonzo Spencer	112
5	Stanton Thatcher	115
	Carol Ofstead	118
6	Aaron Koonce	121
	Martin Cook	124
7	Elizabeth Chumlea	127
	Sarah Wido	131
8	David Altman	133
	Mary Jo Muser	137
9	Randy Reeder	140
	Kathleen Bailey	143
10	Mike Zielinski	146
	Vanessa Stewart	150
11	Mary Gibson	151
	Ron Duncan	154
12	Laura Duncan	158
	Alex Duncan	162
13	Marjorie Evert	163
	Polly Laboda	167
14	Bob Hyland	171
	Rachael Belz	173
15	Jane Forrest Redfern	176
	Kenneth Conley	179
16	Robert Bear	182
	Patricia Marida	185
17	Arthur Strauss	188
	Audience Member	190
18	Karen Arnett	191
	Trish Lanahan	193
19	Dick Bortz	195
	Jill Vanvoorhis	197
20	Georgie Schott	202
	Freida Schott	205
21	Marcia Wallgren	207
	Vivian Baier	210
22	John Stinchfield	213
	Bob Acomb	220
23	Marilyn Wall	223
	Jack Shaner	227
24		

1	INDEX OF SPEAKERS CONTINUED	
2	QUESTION AND ANSWER PERIOD	
3	Linda Barnes	230
4	Marc Conte	232
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 MR. GONZALEZ: Good afternoon,
2 ladies and gentlemen. Good afternoon and
3 welcome to the Ohio Petition Review. It's
4 good to see a nice gathering here today. My
5 name is Rafael Gonzalez, and I'll be your
6 moderator for today.

7 Before we begin today's process, I'd
8 like to very briefly review with you the
9 agenda and share with you a little bit of
10 information about how the proceedings will
11 follow today.

12 Hopefully everyone received an
13 agenda as they came in through the doors.
14 At the tables, they were handing them out.
15 If you'll notice, the agenda has pretty much
16 today's proceedings, and also on the back
17 side, we have the name and the address of
18 the repositories.

19 Also, you were able to pick up -- I
20 need to put my glasses on here --
21 clarifications, errata and updates to the
22 August 30th, 2001, draft report on the U.S.
23 EPA review of Ohio environmental programs.
24 It's a sheet with two sides to it. Also,

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 again, for your information.

2 Before I review the actual agenda,
3 ladies and gentlemen, and we go through some
4 of the introductions, let me review some of
5 the details.

6 Also, when you were coming in from
7 the outside, we asked everyone who was
8 making a comment to please pick up a card
9 with a number on it. We will be taking
10 comments by number, and I'll explain that
11 portion of the program when we actually get
12 to it. But if you don't have a number and
13 you so desire to make a comment later on,
14 will you please see one of the people at the
15 front table for a card with a number on it.

16 Also, ladies and gentlemen, we have
17 two court reporters. We have a court
18 reporter in this venue, and we also have a
19 court reporter in the Palermo room. Now,
20 immediately following the presentation,
21 which will last about 20 minutes, people can
22 begin to go to the Palermo room to give your
23 comments in a more private venue. So that
24 is available for you, also.

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 Please be advised that questions and
2 answers and comments are all part of the
3 official record, and I just sort of spoke to
4 this a few minutes ago, but we do have a
5 sign language interpreter for anyone who may
6 need that service. And that is going on at
7 this moment right now as we speak.

8 Incidentally, the directions to the
9 Palermo room are two rights. You go out
10 this door, make a right, go down to the
11 first hallway and make another right, and
12 the second left will take you to the Palermo
13 room. I was going to say McDonald's, but it
14 just didn't sound right.

15 I would like to now review with you
16 the -- the agenda. As you can see, we have
17 a 20-minute presentation. We will then
18 immediately go to questions and answers, and
19 following that we will go immediately into
20 the comment period. I will explain the
21 procedures for the questions and answers at
22 that time and also the comment period.

23 We also have a box -- for those of
24 you who wrote your comments, there's a box

1 out in front that you can place your
2 comments into.

3 At this time, then, I would like to
4 introduce to you Bertram Frey, acting
5 regional counsel, and he will do the
6 presentation for us.

7 MR. FREY: Thank you very much,
8 Rafael, and welcome.

9 I will give a brief presentation, an
10 overview of EPA's review of the Ohio
11 environmental programs. The overview of my
12 presentation will be an introduction, a part
13 on air -- the air programs, one on the water
14 programs, the waste programs, a brief
15 discussion of general enforcement, and then
16 public outreach. That's EPA's outreach, not
17 Ohio's public outreach.

18 Since January, 2000, the United
19 States Environmental Protection Agency has
20 been conducting reviews of eight federal
21 programs administered by the Ohio
22 Environmental Protection Agency in response
23 to a petition by and for environmental
24 groups expressing concerns about how Ohio

1 has been implementing those concerns.

2 U.S. EPA released a draft of our
3 findings on September 4th, 2001 - is this
4 better in the back?

5 AUDIENCE MEMBER: Is it on? Is the
6 switch on?

7 MR. FREY: Is that better?

8 AUDIENCE MEMBER: Yes.

9 MR. FREY: Very good. Thank you.
10 Thank you. I want to make sure everybody in
11 the back can hear me.

12 The petitioners have raised concerns
13 on eight programs; five Clean Air Act
14 programs. Particularly, the Title V
15 permitting program, Prevention of
16 Significant Deterioration, our acronym is
17 PSD. What that applies to, it concerns new
18 permits for sources in clean air areas in
19 Ohio.

20 New Source Review, which concerns
21 permits for new sources in dirty air areas
22 in Ohio.

23 Standards of Performance for New
24 Stationary Sources, and those standards

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 concern -- those are standards applicable to
2 all sources in the country, technology-based
3 standards. And, finally, Noncompliance
4 Penalty.

5 Under the Clean Water Act, we have
6 one program, that's the National Pollutant
7 Discharge Elimination System, or the NPDES
8 program.

9 And under the Resource Conservation
10 & Recovery Act, there are two programs that
11 petitioners expressed concerns, and that's
12 the hazardous waste and solid waste, in
13 Ohio. The petitioners question whether
14 Ohio's administering these appropriately.

15 Among other things, the petitioners
16 question how Ohio EPA addresses regulated
17 facilities, follows up on complaints,
18 monitors facilities, issues permits, sets
19 standards, releases information to the
20 public, pursues enforcement, and conducts
21 and oversees cleanups.

22 There are a number of -- more
23 specific allegations in the petitions than
24 those.

1 Since January of 2000, U.S. EPA has
2 gathered extensive information from U.S. EPA
3 to the Ohio Attorney General's office and to
4 local air agencies. During these reviews,
5 employees were interviewed and an extensive
6 number of files were reviewed. U.S. EPA
7 also reviewed extensive information
8 submitted by the petitioners, including a
9 number of affidavits, probably from many of
10 you sitting in the audience.

11 U.S. EPA's draft report evaluates
12 whether it is appropriate or not to initiate
13 withdrawal proceedings and our revocation
14 proceedings in response to your petitions.

15 Next I want to address our
16 preliminary findings to the draft report.
17 With respect to the solid waste and
18 hazardous waste programs under the Resource
19 Conservation & Recovery Act, we found no
20 grounds for withdrawal of either of those
21 programs. We found no grounds for
22 withdrawal under the NPDES program,
23 providing Ohio EPA meets its previous
24 commitments that it's already agreed to and

1 takes appropriate action concerning those
2 commitments.

3 Under the Clean Air Act, however,
4 there are specific actions that need to be
5 taken immediately to avoid possible
6 withdrawal of programs.

7 Next, as to the general enforcement
8 programs under Ohio EPA -- that concerns
9 air, water and waste programs -- we found an
10 overall active presence in each of those
11 programs. And we found, in our review of
12 the criminal program, a very good program.

13 Our final report will address
14 recommendations on whether withdrawal or
15 revocation proceedings are proper.
16 Secondly, we will address a number of public
17 comments. In our final report, we'll have a
18 public comment responsiveness summary that
19 we will take each person's comment and
20 respond to it.

21 We will also review Ohio EPA's
22 response, and that's very important because,
23 in many cases, we recommend or suggest
24 program improvements, and part of the

1 process is to gain Ohio EPA's commitments
2 and work with Ohio EPA to fix any problems
3 that we might find that we think need to be
4 fixed.

5 Now I'll go to specific allegations
6 and our responses concerning the Clean Air
7 Act program and, in particular, the
8 enforcement and permitting programs, and
9 we'll address the enforcement program first.

10 We've reviewed five programs: Title
11 V program, the Prevention of Significant
12 Deterioration -- that's the clean air area
13 program -- New Source Review in dirty air
14 areas, Standards of Performance for New
15 Stationary Sources, noncompliance penalties.

16 I'll say one thing about
17 noncompliance penalties: This is a program
18 that we never delegated to Ohio in the first
19 place, and because we never delegated it to
20 Ohio, we can't take it back, so that was a
21 rather simple response for us.

22 However, insofar as all of you
23 petitioners expressed concerns about the
24 penalties, we addressed each of those in the

1 air, water and waste programs.

2 As to our preliminary findings on
3 air enforcement, there's been -- we found,
4 preliminarily, there's been a decline in
5 recent years in Ohio air inspections, cases
6 concluded, complaint investigations, and
7 collected penalty amounts. There are
8 potential gaps in Ohio EPA's legal
9 authorities to implement parts of NSPS and
10 air toxics programs.

11 Ohio EPA has no comprehensive system
12 or process for identifying PSD or prevention
13 of significant deterioration sources that
14 have not identified themselves to Ohio EPA.

15 Ohio EPA does not have procedures to
16 check -- does not have procedures to check
17 the accuracy of statements made from
18 regulated entities; does not have an
19 adequate training program to ensure
20 consistency in that training program
21 throughout the state.

22 Ohio EPA has not provided
23 enforcement program plans as part of its
24 Title V program application. And lastly,

1 Ohio -- the Ohio EPA Division of Air
2 Pollution Control currently has a high level
3 of certain vacancies with no system in place
4 to expeditiously fill those vacancies.

5 This applies as of the end of '99,
6 when we did our report.

7 Now, are there any grounds for
8 withdrawal of the Air Enforcement Program?
9 If verified, commencement of withdrawal or
10 revocation proceedings -- this is our
11 preliminary response in one or more of the
12 programs -- Ohio EPA has an opportunity to
13 make definitive commitments to address these
14 problems, and we found no grounds for
15 withdrawal of the New Source Review, that's
16 for dirty air areas, and for the
17 noncompliance penalty programs.

18 Now, I'll go over some findings as
19 to the permitting programs and for Ohio's
20 air permitting programs. Ohio EPA's fallen
21 behind the statutory and regulatory
22 timetable to issues Title V permits. And,
23 indeed, they're probably the last among the
24 six states in EPA, in our region anyway.

1 Ohio EPA has not implemented a
2 conforming Phase II acid rain program. Ohio
3 EPA is not obtaining sanitized versions of
4 Title V permit applications -- applications
5 with confidentiality claims -- in a timely
6 manner to forward them to the public.

7 Ohio EPA is including incomplete
8 statements of basis with their Title V draft
9 permits and Ohio EPA does not prohibit by
10 regulation the exclusion of insignificant
11 emission units.

12 Well, are there grounds for
13 withdrawal in the permitting phase? The
14 report preliminarily concludes that if Ohio
15 EPA does not address these concerns, there
16 might be sufficient basis for initiating
17 withdrawal proceedings. Certainly, Ohio
18 must issue all of its Title V permits.

19 The findings that Ohio EPA does not
20 have adequate Phase II acid rain rules as
21 part of its Title V program does not
22 prohibit by regulation the exclusion of
23 those insignificant emission units, and is
24 not obtaining sanitized versions of the

1 Title V applications are more serious in
2 nature and require definite action by Ohio
3 EPA.

4 In regard to the PSD program, U.S.
5 EPA preliminary found that Ohio EPA refused
6 to extend time and might be modifying PSD
7 permits, which is -- inappropriately,
8 through an administrative process, rather
9 than through a public formal review process.

10 Well, are there grounds for
11 withdrawal? Unless Ohio EPA addresses these
12 concerns, U.S. EPA requests further
13 investigation with respect to the PSD
14 program.

15 Next I'll go to the Clean Water Act
16 program. The petitioners have expressed
17 seven principal concerns with Ohio's
18 approved Clean Water Act program. And with
19 respect to the first four, we found no
20 sufficient cause to commence withdrawal
21 proceedings at this time.

22 And one is anti-degradation. That
23 deals with -- those are water quality
24 standards. And the principle there is you

1 don't want to have a stream that's already
2 clean get any dirtier, for example.

3 Secondly, with respect to a total
4 maximum daily loads, we found no grounds for
5 withdrawal in our preliminary reports,
6 although I must say circumstances changed
7 there. We got sued about two weeks ago
8 regarding that and there are changed
9 circumstances. We'll have to take a look at
10 that between now and our final report.

11 And under the water quality
12 guidance, again, that's an area where --
13 that's for the Great Lakes, we found no
14 grounds for recall. And, also, no grounds
15 for recall under the Section 401 Compliance
16 Certification where all states enjoy a broad
17 discretion in granting those.

18 Now I want to turn to commercial
19 animal feedlots. They're called
20 Concentrated Animal Feeding Operations, or
21 CAFOs. We found no ground for recall there,
22 providing Ohio EPA meets its commitments
23 made about a year ago.

24 One, timely issuing NPDES permits,

1 although they've had an active state program
2 in that area. But they have committed to
3 NPDES permits, and they're currently
4 reviewing six applications. Also, committed
5 to take appropriate enforcement actions on
6 violations.

7 And certainly with respect to
8 Buckeye Egg, the largest CAFO in Ohio, and
9 15 million chickens, I think the Ohio EPA's
10 on its fourth or fifth, or many more,
11 contempt action. They've litigated that.

12 Next, are there any grounds for
13 withdrawal on the NPDES program? Again
14 we've found in grounds for withdrawal,
15 providing Ohio EPA resolves problems with
16 implementation of its data management system
17 and conducts timely review of electronic
18 reporting of discharge monitoring reports.

19 They have a program called SWIMS,
20 and it's an acronym, but you report all of
21 the compliance data in the system, and Ohio
22 EPA had some difficulty in implementing
23 that. That was a new system. So we found
24 on some occasions they couldn't -- they were

1 supposed to identify a violator within one
2 month, and it took them ten months. That's
3 obviously not acceptable. However, Ohio EPA
4 committed to fix that system a year ago.
5 So, again, we have commitments from Ohio EPA
6 to fix that particular problem, and we will
7 certainly review their progress on that.

8 Finally, we're concerned that they
9 improve the accuracy of the information they
10 submit to EPA's database, which is called
11 the Permit Compliance System, our basic
12 database.

13 Next I'll turn to the Resource
14 Conservation & Recovery Act and to the
15 hazardous waste program.

16 EPA's findings are based on a review
17 of annual audits. We conduct those annually
18 in Ohio, and we have done those from '95 to
19 2000. We've evaluated their overall program
20 and we've examined a number of case-specific
21 information and we review permits and we
22 review enforcement files. So you'll find in
23 our report well over 25 reviews of
24 individual facilities.

1 We found no sufficient cause to
2 commence formal withdrawal proceedings in
3 the hazardous waste program, nor did we find
4 sufficient cause for withdrawal proceedings
5 in the solid waste program. This is a
6 program where there's a limited federal
7 role. There's no federal counterpart to
8 overseeing solid waste facilities and
9 dumps.

10 And after evaluation of the claims
11 of the petitioners, the cases in the overall
12 program, again, we found no grounds for
13 withdrawal there. Anyway, the program has a
14 very low bar in that case anyway. We don't
15 have a counterpart of the program.

16 Our last part of our review
17 concerned the legal offices in Ohio. We
18 reviewed the Offices of Legal Services, the
19 Ohio Attorney General's Environmental
20 Division, and the Ohio -- Attorney General's
21 Bureau of Criminal Investigation.

22 We looked at the function of those
23 legal offices in environmental protection in
24 Ohio. We looked at their case management

1 practices, the types, quantities of their
2 enforcement actions, and the legal
3 perspectives of protection in Ohio.

4 Overall, we found they had an active
5 presence in each program. That's not to say
6 they addressed all enforcement cases on an
7 individual basis in a timely fashion, but
8 overall they had an active presence.

9 And we found, as I mentioned before,
10 their criminal program is very good. In
11 particular, we found that they had a good
12 balance of convictions across air, water and
13 waste, and solid waste programs.

14 And lastly, EPA has a website. This
15 draft report is about 225 pages. It's been
16 put on our website since the 4th of
17 September. We also have set up repositories
18 throughout the state. They're on the
19 handout in the agenda, and we have copies of
20 our draft preliminary reports. And, in
21 addition, we have the copies of the
22 information, our trip reports, a lot of
23 other detailed information that we relied on
24 in coming up with the 225-page report.

1 We will accept written comments for
2 30 days; they're due December 13th. And my
3 last slide has to do with the URL, which is
4 the address of our web site, which you can
5 find information about the Ohio review, a
6 copy of the report, and other information,
7 including the clarification, errata and
8 update sheet which you may have picked up
9 this morning, which we also posted last
10 week.

11 So thank you very much. I guess
12 we're about to enter our question-and-answer
13 phase here, and I appreciate coming to Ohio
14 and appreciate seeing such a good turnout.

15 MR. GONZALEZ: Thank you, Bert.
16 Give us a minute here, ladies and gentlemen,
17 while we very quickly set up the room for a
18 question-and-answer phase.

19 (Pause in proceedings.)

20 MR. GONZALEZ: All right. We talked
21 earlier about some of the procedures for the
22 Q-and-A session, so let me give you those
23 now so we can be clear before we begin.

24 In order to accommodate as many

1 people as we expect will be making -- asking
2 questions, we are going to limit the
3 questions to an hour. We are also going to
4 limit the follow-up question. I mean, if
5 you really need to ask a follow-up question,
6 we will certainly entertain that, but just
7 one per question. So we would appreciate
8 that.

9 Also, we have several staff who are
10 here as support staff. You probably saw a
11 lot of these little badges walking around.
12 But principally we will have on our panel
13 four people who will take the questions from
14 the group and utilize the support staff --
15 you know, sometimes you just need a little
16 assistance in answering some of those real
17 key questions that people ask sometimes. So
18 we've brought plenty of staff to make sure
19 that everyone goes away from this with an
20 answer to their question.

21 So let me introduce the people to
22 you then, ladies and gentlemen. Again,
23 we'll have Bertram Frey, acting regional
24 counsel.

1 We will also have -- they moved on
2 me. We'll have Cheryl Newton, associate
3 director, Air Radiation Division. Cheryl,
4 will you stand, please.

5 We will also have Willie Harris,
6 branch chief, Waste, Pesticides & Toxics
7 Division. And we also have Jo-Lynn Traub,
8 director, Board of Revisions.

9 If you will all take your place over
10 here, please, I'd appreciate that.

11 We then invite you, ladies and
12 gentlemen, to utilize either one of the two
13 microphones, whichever's closer to you, to
14 begin our question-and-answer period.

15 Please don't be bashful, step right
16 up. If the lines get a little too long, we
17 will have -- we have some available seats so
18 you can wait in comfort while your turn
19 comes up.

20 Do we have any takers for questions
21 and answers? I feel a plot here.

22 Step right up here.

23 AUDIENCE MEMBER: I'll be first.

24 MR. GONZALEZ: Thank you very much.

1 MR. FREY: I also want to mention,
2 while you're making your way to the
3 microphone, there are about 40 people from
4 EPA who worked on this report, and a number
5 of people who helped draft the report are
6 here, too, in addition to our senior
7 management.

8 MR. GONZALEZ: We do have a question
9 over here, Bert.

10 MR. FREY: Yes? Let's take Mary
11 first.

12 AUDIENCE MEMBER: I have four and
13 I'll only subject to you one.

14 MR. FREY: Can we take Mary here,
15 first? I'm sorry, go ahead.

16 MARY GIBSON: Mary Gibson from Stark
17 County. I live in -- Mary Gibson from Stark
18 County. I live across from 10 poultry
19 buildings. I have complained about the
20 ambient air for ten years. I have two
21 grandchildren that cannot come to our home
22 because of the health issues and what is
23 being emitted from this operation.

24 I note that the EPA continually

1 gives jurisdiction over to the local health
2 board to follow up on complaints, and quite
3 frankly, that is not a good way to go. You
4 need to have your own people doing that. It
5 is too political in Stark County to expect
6 fair treatment for the people.

7 And I have my neighbors' comments
8 and mine, and I will pass them in. I would
9 like to see and have you fix that for the
10 people of Ohio.

11 MR. FREY: Is there a specific
12 question about that facility in Stark
13 County? This is a large farm.

14 MARY GIBSON: We have 60 poultry
15 buildings in a mile and a half. The -- the
16 owner has a lot of political clout. So it
17 has -- most of the people gave up and moved
18 out, trying to get them to answer what we
19 were trying to bring to their attention, and
20 I find it amusing at the -- what the EPA --
21 Ohio EPA goes through to not do their job.

22 Now, how would you like to fix that?

23 (Applause.)

24 MR. FREY: Well, first off, I need

1 to understand exactly what facility. Is
2 this a facility owned by Buckeye Eggs?

3 MARY GIBSON: No, this is Park
4 Farms, a broiler operation.

5 MR. FREY: Park Farms, okay.

6 MR. GONZALEZ: Thank you. I think
7 we have another question --

8 MR. FREY: We have a response --
9 Jo-Lynn, do you want to give a response?
10 It's a --

11 MARY GIBSON: They raise seven
12 million broilers a year --

13 JO-LYNN TRAUB: That's a lot of
14 chickens. One of the issues we've had, in
15 fact, with several states in the region is
16 having the states go out and pro-actively
17 conduct inspections looking at the NPDES
18 guidelines to make sure the facility's in
19 compliance.

20 Ohio EPA has now committed to do
21 that under their latest 106 grant. So we
22 will make sure that we follow up and hold
23 them to that commitment, not only to respond
24 to citizen complaints, but to go out and do

1 these inspections annually to ensure
2 compliance.

3 MARY GIBSON: I find it most unfair
4 not to do that.

5 JO-LYNN TRAUB: Yes, you're correct.

6 MR. FREY: Next?

7 ELIZABETH CHUMLEA: I'm Elizabeth
8 Chumlea from Enon, Ohio. One of my
9 questions is this: It has been noted that
10 the Ohio EPA lacks institutional memory.
11 File searches can take days of dedicated
12 study for each site under review.

13 Do you believe that the public is
14 best served by the frequent and erratic
15 rotation of agency staff, thereby
16 effectively stunting agents' efforts to
17 complete goals at each site while adding to
18 overall confusion, poor communication, and
19 loss of employee morale?

20 MR. FREY: I guess that's a general
21 overall question. Certainly, if you have a
22 lot of turnover and switching around of
23 people, that is a problem. There are pluses
24 and minuses, however. You want to make sure

1 that people have a broad range of experience
2 so they understand environmental problems.
3 On the other hand, you want to have folks
4 with expertise as well.

5 So, again, those sorts of issues are
6 issues that we have addressed in our report,
7 particularly in the air, water and waste
8 programs on the training of people, their
9 expertise, making sure that they have
10 consistent programs, training programs,
11 certainly an issue we looked at in our
12 review, and any comments you make on that
13 we'll certainly take them seriously and look
14 at them.

15 ELIZABETH CHUMLEA: Did you look at
16 the length of time, on average, that each
17 agent is assigned to a specific site?

18 MR. FREY: I'm not aware that we did
19 that specifically but that's -- again, we'll
20 have to address your comment.

21 ELIZABETH CHUMLEA: I think that's
22 an important issue.

23 MR. FREY: Okay.

24 ELIZABETH CHUMLEA: Thanks.

1 VANESSA STEWART: Vanessa Stewart
2 from Cleveland. I was under the impression
3 that the criminal enforcement program was
4 not in the petition. Was this just a way to
5 throw in something positive into the
6 petition, or was it in the petition?

7 MR. FREY: We -- we view that the
8 petitioners looked at enforcement programs
9 as a whole, and that includes criminal as
10 well as civil and administrative
11 enforcement. So we did a thorough program
12 review. So it's a question of fair and
13 thorough review and the criminal program to
14 look at a thorough issue.

15 So I don't know whether there were
16 specific allegations about the criminal
17 program in the petition, you're correct
18 about that, but we felt that to have a
19 thorough review of their program, we had to
20 look at the criminal program, too.

21 VANESSA STEWART: Okay. Thank you.

22 FREIDA SCHOTT: Freida, F-R-E-I-D-A,
23 Schott. Just a quick comment on the
24 employees. Our landfill site permit has --

1 we're on our third engineer on that permit.

2 My question is how can the Ohio EPA
3 allow an operator to continue operating a
4 landfill, let alone consider allowing them
5 to proceed with a new landfill application,
6 when the Attorney General's office has
7 issued notice of violation letters and the
8 applicant refuses to resolve or even address
9 any of the issues in that letter?

10 Some of the issues being the
11 inadequate ground monitoring -- groundwater
12 monitoring system, unit designation issues,
13 location restriction demonstrations. The
14 operator is not monitoring the uppermost
15 aquifer system as required in 3745-27-10.

16 How bad does an operator have to be
17 before he is not allowed to continue
18 operating a landfill and/or starting a new
19 one?

20 MR. FREY: Willie, do you want to --
21 is this a solid waste or hazardous --

22 FREIDA SCHOTT: Solid waste.

23 MR. FREY: We'll have Paul answer
24 your question.

1 PAUL REUSCH: I'm not -- Paul
2 Reusch -- exactly familiar with the site
3 you're speaking of.

4 FREIDA SCHOTT: The Royalton
5 Landfill in Cleveland.

6 PAUL REUSCH: Typically when the
7 Ohio EPA addresses problems with landfills
8 under 3745 Chapter 27 rules, they're
9 given -- the operator is given several
10 opportunities and is usually put on a time
11 frame to correct those problems. And they
12 work collaboratively with the facility to
13 address the groundwater monitoring concerns.
14 And some of those sites are grandfathered in
15 under older regulations.

16 So, as I said, I can't address the
17 specific allegations, because I'm not --
18 that was not one of the sites reviewed in
19 the petition, but we'll be happy to take a
20 look at that site and -- and respond to the
21 particular concerns that you have, and I
22 appreciate you bringing them up.

23 FREIDA SCHOTT: How long, generally,
24 do they have to come into compliance?

1 Because we did a file review on this
2 landfill in the northeast area, and there's
3 letters in there dated 1970, and they're
4 still out of compliance, and they're
5 considering giving them a -- well, the new
6 application is on hold. How long? How long
7 do we have to wait?

8 PAUL REUSCH: I'm sorry, I don't
9 have an exact answer for you because I'm not
10 familiar with the particular files here.
11 The issues that were raised in 1970 may have
12 been resolved and there may be new issues,
13 because the solid waste regulations
14 pertaining to landfills have evolved.

15 There's two generations of
16 regulations since the 1970s, the most recent
17 being in 1994. Typically they're put on a
18 time frame and they're given a certain
19 amount of time to come into compliance, and
20 if they can't come into compliance, then the
21 site is referred to the Ohio Attorney
22 General's office, which then has the option
23 of pursuing, if it deems that the violations
24 are important enough to pursue, they'll

1 pursue a case against the site. But, again,
2 I'm -- it varies from site to site.
3 Sometimes they're given 90 days, sometimes
4 they're given six months. Some of the
5 violations and the problems that these
6 facilities have, you can't correct
7 overnight.

8 MR. GONZALEZ: Thank you. That was
9 Paul Reusch, ladies and gentlemen. We'll
10 take the next question.

11 MR. FREY: Yes, that's true. When
12 we have one of our other reviewers here,
13 I'll ask him to identify himself for the
14 court reporter and for the audience, too.

15 Yes?

16 THERESA MILLS: My name is Theresa
17 Mills. I'm with the Buckeye Environmental
18 Network --

19 AUDIENCE MEMBER: Can't hear.

20 AUDIENCE MEMBER: Can't hear
21 nothing.

22 THERESA MILLS: My name is Theresa
23 Mills. I'm with the Buckeye Environmental
24 Network. For the past six years, our group

1 has had to turn over nine industries to the
2 U.S. EPA because Ohio EPA failed to do
3 anything about it because the -- because the
4 Ohio EPA has failed to take any action
5 against these nine industries. The U.S. EPA
6 always makes me go through -- we play a
7 game. I tell the U.S. EPA what the problem
8 is, the U.S. EPA responds, but the Ohio EPA
9 has been delegated that authority to handle
10 that problem. I have to respond by saying
11 that it's correct that Ohio EPA is in
12 violation of their own state implementation
13 plan. Now the majority of these nine
14 industries have been cited by the U.S. EPA
15 for a violation of the state implementation
16 plan.

17 My question is, why hasn't Ohio EPA
18 been cited for a violation of their state
19 implementation plan?

20 MR. FREY: I think this is an air
21 question.

22 CHERYL NEWTON: I guess that
23 question is a little difficult to answer
24 without knowing specifically, you know, case

1 specific information.

2 In general, though, we do have a
3 work relationship with Ohio EPA whereby we
4 talk about certain cases, and depending on
5 who is in the best position to pursue an
6 enforcement case, sometimes they are raised
7 through citizen complaints, and we will take
8 the lead on those. And just because we
9 agree to take the lead on a case doesn't
10 necessarily mean that Ohio is not doing its
11 job by agreeing to pursue its resources in
12 other areas.

13 So without knowing specifically more
14 of the exact circumstances of any specific
15 case, that would be our general response, is
16 that we try and sort of divide the resources
17 in terms of who is in the best position to
18 explore and investigate each individual
19 case.

20 MR. FREY: If I can give a
21 supplemental answer on that question, if you
22 look at the -- the facilities that are
23 identified by the -- by the petitions -- I
24 think there were 56 facilities in the '99

1 or -- August, '99 supplement. And the Ohio
2 EPA and the Attorney General's office, I
3 believe, have resolved cases against 27 of
4 those, and U.S. EPA had cases against most
5 of the rest of them.

6 So I think that's another general
7 answer, that we do work in partnership with
8 Ohio EPA on enforcement cases because
9 neither of us can do all of the cases.

10 THERESA MILLS: But I don't think
11 that that is -- either of those answers are
12 answers to the question I asked. The
13 question I asked was why has Ohio EPA never
14 been cited for violating their own state
15 implementation plan?

16 Their state implementation plan
17 says, in basic words, we will not allow any
18 industry in the state of Ohio to operate
19 without a permit. We probably have more
20 people or industries in the state of Ohio
21 operating without valid permits than we do
22 with valid permits.

23 MR. FREY: Again, part of our -- in
24 those circumstances, there are very rare

1 cases where we do -- we cite Ohio EPA or
2 give them the opportunity to enforce first,
3 but generally it's a matter of either -- of
4 them enforcing or we're enforcing.

5 I'm not getting at your question as
6 much as I think you'd probably like, but we
7 don't --

8 THERESA MILLS: No, you're still
9 skirting the question. Why haven't you
10 cited the Ohio EPA?

11 MR. FREY: In most cases we can't
12 cite them for the failure to enforce, we
13 cite the industry directly.

14 THERESA MILLS: Maybe that's what
15 your problem is.

16 MR. GONZALEZ: Thank you. Thank
17 you.

18 (Applause.)

19 MR. FREY: Yes?

20 GEORGIE SCHOTT: Hi, my name is
21 Georgie Schott, G-E-O-R-G-I-E, S-C-H-O-T-T,
22 and I have a question about solid waste
23 again. I would like to know how a landfill
24 company with up to 400 deficiencies on a

1 permit to install application can be given
2 chance after chance after chance to come
3 back and try it again.

4 PAUL REUSCH: Again, I'll introduce
5 myself. My name is Paul Reusch. I work in
6 the solid waste program for Region 5.

7 Which facility is applying for the
8 PTI?

9 GEORGIE SCHOTT: This would be
10 Norton Environmental for the Ridge Landfill
11 in Tuscarawas County.

12 PAUL REUSCH: Typically when a
13 company applies for a landfill permit or
14 submits a PTI, it's very typical that there
15 are numerous deficiencies in their
16 application. It would be like if you
17 applied for a permit to do some improvement
18 at your house and you didn't fill out all
19 the forms, you didn't submit all the correct
20 information. So it's not atypical to find a
21 large number of violations with the permit
22 to install application.

23 They're given an opportunity to
24 correct those because they have an interest

1 in building this facility and doing it in
2 consistency with the rules, with the Chapter
3 27 rules. And they're -- they're given this
4 opportunity out of fairness to them, and
5 it's a process that sometimes takes ten
6 years to get it right.

7 And sometimes the facility decides,
8 after repeated notices of deficiencies from
9 Ohio EPA, just to abandon those efforts.
10 But if the facility wishes, the owners and
11 operators continue to seek that permit, the
12 Ohio EPA is obligated to work with them to
13 make sure that the permit is up to scale and
14 what they're doing is -- is consistent with
15 the most current regulations.

16 So it's -- it's a back and forth --
17 it's a game that goes on -- can go on for
18 many years, but they can't be told no,
19 you -- you can't do this, you don't have an
20 opportunity to correct these problems unless
21 the Ohio EPA makes a final determination
22 that -- that the permit has deficiencies
23 that just cannot be corrected.

24 GEORGIE SCHOTT: Okay. And my

1 follow-up for that is does the waiving of
2 the deficiency by the director of the Ohio
3 EPA who, as you all know, has that right at
4 the end of every regulation, does that
5 constitute correcting the deficiency if it's
6 waived?

7 PAUL REUSCH: No. When the
8 director -- you're talking about the
9 director making an exception or the Ohio
10 EPA -- the Chapter 27 rules have provisions
11 in them that say you have to meet this, or
12 if it's deemed acceptable by the director.
13 There can be flexibility there.

14 In order to get that flexibility,
15 the facility has to specifically request it
16 and prove to the agency that they're meeting
17 the intent of that regulation or the
18 protection outlined in that regulation in
19 order to get that. But that is not viewed
20 as a correction, it's viewed as an
21 alternative that's acceptable to the Ohio
22 Environmental Protection Agency.

23 GEORGIE SCHOTT: So they don't have
24 to actually correct it?

1 PAUL REUSCH: Well, they're -- by
2 providing this alternative, they're --
3 they're viewed as correcting it.

4 GEORGIE SCHOTT: Yes. Okay. And I
5 just -- this is not a question --

6 MR. GONZALEZ: That was your
7 follow-up.

8 GEORGIE SCHOTT: I was just going to
9 make a quick comment about grandfathering.
10 Grandfathering hurts our grandchildren. I
11 just wanted to make that point.

12 PAUL REUSCH: Thank you.

13 (Applause.)

14 MR. FREY: Next?

15 LAURA DUNCAN: Yes, my name is Laura
16 Duncan, D-U-N-C-A-N. I live in Middlefield,
17 in Geauga County. At one time there had
18 been a U.S. EPA representative, an Ohio EPA
19 representative, that met with our mayor in
20 our village and some other council people.
21 There is a known toxic chemical leaving this
22 one industry in our community and it was
23 tested back in June of 2000. As of this
24 date, Ohio is doing nothing about it at all.

1 Now, we would like U.S. EPA to come
2 back in, because we have worked well with
3 them over the years, but we are told by U.S.
4 that they have to wait because they are not
5 the lead in this; Ohio is the lead in this.

6 When does Ohio relinquish their
7 lead -- since they're not doing anything
8 anyhow, they're letting this chemical come
9 off into the community, into the waterways,
10 down our street, where we live, and when do
11 they let U.S. EPA come back in and start
12 doing something to correct the situation?

13 MR. FREY: Which particular facility
14 is it?

15 LAURA DUNCAN: Johnson Rubber.

16 MR. FREY: Johnson Rubber. Again,
17 this is a -- we certainly -- the last time I
18 came and listened to a public meeting, about
19 three years ago, I took excellent notes, and
20 there were a number of enforcement cases
21 that followed up on those matters. So I
22 really appreciate your bringing this one to
23 our attention. Unless one of our people
24 knows about this particular case. Anyone?

1 Anyone?

2 JO-LYNN TRAUB: What kind of
3 facility is it?

4 LAURA DUNCAN: Rubber. They're
5 letting TCE out of the drain pipe out of
6 their company.

7 MR. FREY: It's a water case.

8 LAURA DUNCAN: Well, it's water and
9 it's running in the street, it's running in
10 people's yards. It's a mess. And Ohio has
11 known about this for nearly a year and a
12 half now and they have chose to do nothing
13 because they're too busy, yet it's still
14 draining.

15 Now, what can we do to get U.S. EPA
16 to help when he tells us he can't do
17 anything because Ohio's the lead in this and
18 they're not doing a thing?

19 MR. FREY: We'll certainly take your
20 comment and address that and look into that
21 problem certainly.

22 LAURA DUNCAN: Thank you very much.

23 MR. FREY: Yes.

24 KAREN ARNETT: My name is Karen

1 Arnett. I work with Environmental Community
2 Organization. I would like to know, is it
3 not illegal for a company to begin
4 construction and even complete construction
5 of a facility before the PTI has been
6 issued?

7 MR. FREY: Again, generally, they've
8 got to have a permit before they can begin
9 construction.

10 KAREN ARNETT: I'd like to just draw
11 your attention to a case of Waste Management
12 of Ohio wanting to put a solid waste
13 transfer station on the old Elda Landfill
14 site in Cincinnati.

15 They applied for the permit late in
16 1998. I believe the PTI was actually
17 granted late this year. However, in, I
18 think it was April of this year, the company
19 applied for an operating license from the
20 Board of Health in Cincinnati, encouraging
21 them to expedite the license and saying the
22 construction would be completed within a
23 couple months, by June of this year.

24 Now, one of the deficiencies in the

1 permit was that the company neglected to
2 show where leachate lines were going to go.
3 Important stuff to protect the health of the
4 community, and yet I wonder how any sort of
5 oversight could have happened in that
6 construction process when the PTI was not
7 even granted by the time the facility was
8 constructed under the guise of a recycling
9 facility.

10 PAUL REUSCH: I'm not exactly
11 familiar with the transfer station permit,
12 but I believe that when Waste Management
13 started construction of that transfer
14 station, they were under the impression that
15 they did not need a PTI for it, which is --
16 which is why they began that work.

17 KAREN ARNETT: They had submitted
18 their PTI before they began construction, I
19 believe, so they couldn't have thought that
20 it wasn't necessary.

21 PAUL REUSCH: Okay. Well, I
22 appreciate your comment, and unfortunately I
23 don't have an exact answer for you as to how
24 that whole process took place, but I've

1 written down the facility and we will look
2 into it and try to address the issues that
3 you raise.

4 KAREN ARNETT: Thank you.

5 MR. FREY: It isn't also the first
6 time we've gotten involved in the Elda
7 Landfill.

8 SANDY BUCHANAN: Buchanan,
9 B-U-C-H-A-N-A-N, from Ohio Citizen Action.
10 I have a question for Bert about the
11 presentation. You mentioned in the water
12 programs there are no grounds for
13 withdrawal, provided that Ohio takes a
14 series of actions, and apparently they've
15 represented to you they will take. What
16 happens if they don't take those actions?

17 MR. FREY: I guess it depends on the
18 action, and it depends on the finding we
19 had. Certainly there are -- there were some
20 serious concerns with the -- with the water
21 program, as I mentioned. There are four of
22 them that I mentioned in the presentation.
23 But about a year ago, Ohio committed to fix
24 some of those in response to, I think, a

1 letter which we sent threatening to withhold
2 some of their grant money in the water
3 program. So we got commitments from Ohio to
4 do that.

5 And also we want to work closely
6 together with the Department of Agriculture
7 in Ohio regarding the CAFO, because they're
8 going to have enforcement powers eventually
9 over that program.

10 So I think if I -- there definitely
11 are concerns. On the other hand, they have
12 to make commitments to fix those concerns,
13 and certainly it's our responsibility to
14 continue oversight of those. We have to
15 make sure that they meet their commitments
16 and we commit to do that.

17 SANDY BUCHANAN: Has Ohio EPA ever
18 made commitments or representations to you
19 before that they have not followed up on?

20 MR. FREY: I can't -- which specific
21 ones?

22 SANDY BUCHANAN: Well, there were a
23 slew of them, for example, in your report
24 and, I mean, it strikes many of us that talk

1 is cheap.

2 MR. FREY: Again, that's a general
3 comment. Our job is to -- in this area is
4 to make sure that Ohio -- we're going to
5 work together with them so they do follow up
6 on the comments.

7 MR. GONZALEZ: Thank you. Before we
8 continue, I would like to see by a show of
9 hands -- we have plenty of time yet, so it's
10 not a question of time. It's more a
11 question of -- I know it's difficult to come
12 up and just straight out ask a question, and
13 so many of us -- what we usually do is set
14 up the question with some sort of a brief
15 statement about a particular place.

16 But if you could just keep your --
17 your comments to a question or your
18 statements to a -- to a question, I think we
19 could facilitate, in case more people as we
20 go along the process into the hour really do
21 decide to come on up.

22 So by -- just by a show of hands,
23 how many more people are contemplating
24 asking a question?

1 Okay. So, please, I will ask you to
2 please come to your question as quickly as
3 possible. Thank you very much.

4 MR. FREY: Now I'm over here.

5 FREIDA SCHOTT: Freida Schott again.

6 Is it a common practice for the EPA
7 to inform the applicant of an NPDES permit
8 to, and I quote, may request exclusions or
9 waivers that provide for either a more
10 limited form of review by the agency or less
11 extensive application requirement in certain
12 circumstances?

13 Is that normal wording in an
14 application?

15 MR. FREY: Which -- is this air,
16 water or waste matter?

17 FREIDA SCHOTT: NPDES.

18 MR. FREY: Okay. Water matter.
19 Jo-Lynn --

20 JO-LYNN TRAUB: I'm not really clear
21 on the question.

22 MR. FREY: Say that question again.

23 FREIDA SCHOTT: This is quoting off
24 of the NPDES application. They had -- the

1 applicant may request exclusions or waivers
2 that provide for either a more limited form
3 of review by the agency or a less extensive
4 application requirement in certain
5 circumstances.

6 JO-LYNN TRAUB: Gary, do you --

7 MR. FREY: Do you want to try this
8 one, Gary? This is Gary Pritchard of the
9 Office of Regional Counsel, U.S. EPA, in
10 Region 5.

11 GARY PRITCHARD: I don't know if
12 that's common language, but I guess it's
13 not -- it's not an uncommon practice for
14 even U.S. EPA -- we're always looking for
15 ways to streamline things, and as long as
16 what the State's trying to do is consistent
17 with the Federal requirements on permit
18 applications, I don't think that's
19 inappropriate language.

20 The questions are what exclusions
21 are they seeking and if those exclusions cut
22 out the public, that would be inappropriate.
23 There are certain minimum Federal
24 requirements. So I guess the short answer

1 is, no, I don't think -- I don't know if
2 that's common practice, but I don't see
3 anything inappropriate about that.

4 MR. FREY: Thank you.

5 MARY JO MUSER: Mary Jo Muser with
6 Ohio Citizen Action from Cleveland. Three
7 quick questions.

8 Is anyone from the Ohio EPA even
9 here today?

10 MR. FREY: Yes, I think they have a
11 person that is here. The hearing is -- the
12 hearing is our review of them, not of --

13 MARY JO MUSER: Just curious.

14 MR. FREY: Yes, there was a person
15 here from our office in public affairs.

16 MARY JO MUSER: Also, what is going
17 to be done about the 1200-plus toxic land
18 sites that there really is no Federal
19 funding to clean up and the Ohio EPA doesn't
20 really seem to care about that are
21 throughout the state of Ohio?

22 Nobody has really addressed that and
23 I'm hearing that there really isn't a
24 problem, and I really find a problem with

1 that.

2 MR. FREY: Someone want to address
3 that particular question?

4 MARY JO MUSER: The Brownsfield
5 sites.

6 MR. FREY: 1200 toxic facilities?

7 MARY JO MUSER: Toxic sites, places
8 in general, all over. There's just toxic
9 waste everywhere in our state. What's going
10 to be done about it? There's no federal
11 funding for the vast majority, and it just
12 doesn't seem to be a problem with anybody.
13 I don't understand.

14 MR. FREY: I can --

15 MR. GONZALEZ: I think that's
16 probably a real general question and a solid
17 one that perhaps we're not prepared to
18 answer, from the looks of it.

19 MR. FREY: I think that -- I think
20 there are -- I think -- this is an area
21 where EPA's concerned about -- unless you
22 want to take this one, Willie, I'll give an
23 answer.

24 Certainly we would want to work

1 together with Ohio to expand the voluntary
2 action they have -- just let me finish.

3 So to try to address on another kind
4 of program, which wouldn't -- wouldn't be
5 based on that particular law, which has
6 defects, in our view --

7 MARY JO MUSER: Big time.

8 MR. FREY: -- but would be based on
9 another RCRA program that we worked out with
10 Ohio. This is a very timely question. This
11 is something we're concerned about, too.
12 And to work out to deal with the small and
13 medium-sized facilities, that would clean up
14 those facilities. So I think that it's an
15 area for future work with Ohio EPA in this
16 matter.

17 MR. GONZALEZ: That's -- you know,
18 that's a great question. I think that we
19 have it and we'll make comments to that, but
20 you've had two great questions. I thank you
21 very much.

22 AUDIENCE MEMBER: I was
23 interested -- he was itching to say
24 something there.

1 MR. FREY: Willie, do you want to
2 say something? That's fine.

3 WILLIE HARRIS: I was just going to
4 say that in the RCRA program, our highest
5 priority right now is addressing what we
6 refer to as high priority GPRA sites.
7 That's Government Program Results Act sites.
8 There are a lot of low and medium priority
9 sites that are not receiving the attention
10 that we're giving these high priority sites.
11 That's not to say that we're -- we're not
12 looking at them. I mean, we're -- we're
13 aware that they're out there and we're aware
14 that something has to be done with those
15 sites, but with the resources that both the
16 EPA has and the State has, we have to focus
17 our major effort right now on the high
18 priority sites.

19 MARY JO MUSER: It's my
20 understanding that 35 of these are high
21 priority out of 1200 plus. I'm concerned
22 about that, too.

23 MR. GONZALEZ: I'm sorry, can we
24 move on.

1 MR. FREY: If you have a comment,
2 please put it down as a comment.

3 JILL VANVOORHIS: My name is Jill
4 VanVoorhis, and I'm with Citizens Against
5 American Landfill Expansion. I have two
6 questions. They're about two individual
7 sites.

8 I'm curious about what the Federal
9 regulations are. We're dealing with
10 American Landfill, it's owned by Waste
11 Management. They're doing an expansion.
12 Part of their PTI was to go over top the
13 oldest part of the site, the 25-year-old
14 site. It's dirt lined. That is where their
15 expansion would start.

16 Through protest, Waste Management
17 did agree to put a liner over top the old
18 unlined garbage. There was no Ohio EPA
19 regulations for this. But the Twinsburg
20 office told me -- Waste Management had
21 asked -- well, I asked them, because Waste
22 Management has asked, you're coming through
23 with regulations, and they said basically
24 yes.

1 My question is, right now Ohio EPA
2 has regulations drawn up and is trying to
3 push it through right now. Waste Management
4 cannot turn their deficiencies in until this
5 package goes through. Are there Federal
6 regulations against liners over top of old
7 unlined areas? If so, what are they and how
8 do you feel about Ohio coming up with these
9 regulations strictly because Waste
10 Management has asked?

11 PAUL REUSCH: Regarding -- again, my
12 name is Paul Reusch. I'll stop introducing
13 myself. I'm probably going to get a lot
14 more questions about solid waste.

15 American Landfill -- the Federal
16 criteria do not speak to liners over pre --
17 prefilled areas, unfortunately. What our
18 regulations with the -- the Federal criteria
19 speak to are liners over new areas.

20 So if the company that is proposing
21 this can prove from an engineering and
22 technical standpoint that they can anchor
23 that liner and they can protect the
24 groundwater around this facility, then it is

1 likely that they -- they're able to propose
2 this. And if Ohio EPA's technical staff
3 agrees to it, then they can do it.

4 Unfortunately, the Federal criteria
5 are very -- it's a very low bar, as Bert
6 said earlier. It's a very basic program.
7 Ohio EPA's solid waste regulations far
8 exceed the Federal criteria.

9 With regards to this new package,
10 this new regulatory package, I have not seen
11 the regulatory package, so I cannot comment
12 on it. I know that Ohio EPA sees some of
13 the current regulations as deficient and has
14 been working with the legislature to
15 strengthen some of those regulations to
16 preclude vertical expansions over pre --
17 areas that did not have a liner where
18 disposal took place.

19 JILL VANVOORHIS: Christopher Jones'
20 comment was, in fact, his concern was not
21 the old garbage that's already there, but
22 his only concern was the new garbage that's
23 going in. Well, the problem of going over
24 top years and years of old garbage, what's

1 going to contaminate my water is what's
2 already there. It's going to push it down
3 into our water system. So for him to say
4 his only concern is the new coming in, it's
5 the old that's going to contaminate me.

6 MR. GONZALEZ: Thank you.

7 JILL VANVOORHIS: We have one more
8 question. The Federal --

9 MR. GONZALEZ: Again, I would like
10 to reiterate that you please leave your
11 comments for the comment period.

12 JILL VANVOORHIS: This is a site
13 that has been Federally charged --

14 MR. GONZALEZ: We'll let you finish
15 this one.

16 JILL VANVOORHIS: Okay. It's exit
17 C & D. Tim Williams had pumped leachate
18 into the creek, and the Federal was in and
19 he pleaded guilty. I don't know if any of
20 you are familiar with this exit C & D, what
21 has happened since then, our Ohio EPA --
22 this is a bad site, there's a lot of
23 leachate problems, he pleaded guilty, the
24 Federal kind of did the case, stepped away

1 and allowed Ohio EPA to take over. There
2 was no cleanup.

3 Now he has given this man an
4 asbestos permit, and now he's given him more
5 permits as far as to bring certain solid
6 waste and tires into this. Here's my
7 question to the Federal: Mr. Williams had
8 agreed -- part of his agreement in the
9 settlement with the Federal was he was to
10 sell this site by March of 2001. They
11 charged him waste, but they didn't charge
12 him exit C & D, because he was to sell this
13 site. The Federal has never taken any
14 action.

15 Since he was to sell and he did not
16 since March, he has tripled his business,
17 added asbestos and added tires and some
18 certain solid waste.

19 Is the Federal actually going to
20 follow-through with this or are they going
21 to let him get away with breaking a deal
22 with the Federal?

23 PAUL REUSCH: This exit C & D is a
24 construction demolition landfill?

1 JILL VANVOORHIS: Right.

2 PAUL REUSCH: I'm not familiar with
3 that case. This is the first I'm hearing
4 about this facility.

5 JILL VANVOORHIS: Is there a way I
6 can find out who is?

7 MR. FREY: We'll follow up with
8 that. If we have someone who's violated a
9 Federal judge's order in a criminal case,
10 we'll certainly follow up on that.

11 JILL VANVOORHIS: Channel 8 news had
12 done a story on this.

13 MR. GONZALEZ: Thank you very much.
14 We have to move on.

15 JILL VANVOORHIS: He had interviewed
16 the Federal and the Federal is reopening
17 this. I just wanted to let you know that.

18 MR. FREY: That's fine.

19 MR. GONZALEZ: We'll follow up.
20 Thank you very much.

21 Next over here, please.

22 KURT KELJO: Kurt Keljo, from the
23 Friends of Blacklick Creek. I'm just
24 wondering if there is any expectation on the

1 part of the U.S. EPA that when a permit is
2 requested on the part of a developer, is
3 there any expectation that there be a
4 stormwater prevention pollution plan
5 submitted with the application? Should that
6 application with the stormwater pollution
7 prevention plan, should that be reviewed by
8 anyone before a permit is granted?

9 JO-LYNN TRAUB: I don't know what
10 the State's specific requirements are for
11 their general stormwater permits. I don't
12 think we've got anyone -- Arnie, do you
13 know?

14 ARNIE LEDER: I believe on the
15 stormwater construction permits, the State
16 generally issues a general permit --

17 AUDIENCE MEMBER: We can't hear you.

18 ARNIE LEDER: The State normally
19 issues a general permit and then the
20 construction facility submits a -- my name
21 is Arnie Leder. I'm in the water
22 enforcement compliance assurance branch in
23 Region 5.

24 My understanding is in the Ohio --

1 with the stormwater construction permits,
2 that the State issues a general permit. In
3 order for a facility to get a general
4 permit, they have to apply, submit a
5 notification of intent to the State. They
6 also have to do a stormwater pollution
7 prevention plan.

8 Typically, as is the case in most
9 general permits, they do not have to submit
10 their pollution prevention plans to the
11 State for review, they simply have to have
12 it and meet basic requirements.

13 MR. FREY: Yes?

14 AUDIENCE MEMBER: I don't know how
15 many people here might have been able to
16 make the trip from the cancer pocket around
17 East Liverpool, Ohio, but my question, sir,
18 concerning the WTI toxic waste incinerator
19 that's been there for about eight years, and
20 correct me if I'm wrong, but didn't the
21 national ombudsman for the EPA recommend
22 that plant be shut down for at least six
23 months to study its impact on the local
24 community? And if so, what has happened to

1 that recommendation? Will it be followed up
2 on? What level of investment do citizens of
3 Ohio have to bring to the table to ensure
4 that kind of enforcement?

5 MR. FREY: Harriet, do you want to
6 try that?

7 HARRIET CROKE: Harriet Croke. What
8 happened with that is when the information
9 came out, there was additional information
10 that was returned to the ombudsman regarding
11 some of the assumptions he had made in his
12 report. He had made certain assumptions
13 about data that had been used in the
14 original risk assessment which we believed
15 were incorrect. We sent that information
16 back to the ombudsman, and I haven't seen
17 anything else out of the ombudsman's office
18 with regard to that.

19 AUDIENCE MEMBER: Can I ask how that
20 data was generated, what companies were
21 commissioned to do that research and -- and,
22 you know, how accountable they are through
23 the public.

24 HARRIET CROKE: I'm sorry, which

1 data?

2 AUDIENCE MEMBER: The data that was
3 related to the ombudsman.

4 HARRIET CROKE: It's all data in the
5 original risk assessment. It's available to
6 the public.

7 AUDIENCE MEMBER: Who conducted the
8 risk assessment and by what methods?

9 HARRIET CROKE: It was conducted by
10 the U.S. EPA with contractor assistance, and
11 the information that went into that was
12 based on the trial burn that was carried out
13 at WTI. And the data, again, went into the
14 risk assessment for those calculations.

15 AUDIENCE MEMBER: Do you happen to
16 know how many pounds of mercury were
17 released into the atmosphere during the
18 trial burn? I've heard conflicting figures.

19 HARRIET CROKE: Not offhand, sir.

20 MR. GONZALEZ: Thank you.

21 MR. FREY: Next?

22 AUDIENCE MEMBER: 29 pounds.

23 AUDIENCE MEMBER: 29 pounds of
24 mercury? That sounds like a lot.

1 AUDIENCE MEMBER: March 10th and
2 11th.

3 MR. FREY: Next question, please.

4 BOB HYLAND: Bob Hyland, I'm from
5 Ohio, and I'm hearing a lot of, "it's been
6 noted," or, "we'll look into it."

7 I'm wondering what sort of action
8 those phrases represent. In other words,
9 when it's been duly noted, the comments that
10 people are making, questions that they have,
11 or you say you'll look into it, what does
12 that mean? What sort of programs do you
13 have for taking action?

14 MR. FREY: Well, I think a -- what
15 that means is we will look -- if we can show
16 that there's enforcement violations, we will
17 certainly look into what our appropriate
18 response is. That could be a warning
19 letter, that could be a notice of violation,
20 that could be an administrative action, an
21 order or penalty case or full Federal case
22 in District Court.

23 If it's a permit matter, we could
24 look, maybe they need a permit at the

1 Federal or State level.

2 There's a number of responses that
3 we can take, depending on what we find in
4 the particular instance that you mention.

5 BOB HYLAND: My follow-up is if they
6 need a permit -- if they're polluting,
7 shouldn't they already need a permit? Why
8 would they be permitted to pollute without a
9 permit?

10 MR. FREY: Yes, most of them should
11 have a permit. And if it's someone who's
12 evaded a permit, that's another kind of
13 enforcement case against the permit evader.
14 Actually, our highest incident of RCRA is
15 permit evaders.

16 BOB HYLAND: I would ask that you
17 note that they don't have one --

18 MR. FREY: Thank you.

19 MR. GONZALEZ: Folks, we're sort of
20 running down on time. We've got about 18
21 minutes left. I'll ask you, please, just
22 one question, and if you need to absolutely
23 have a follow-up, just one, please.

24 MR. FREY: Okay.

1 SUE LYONS: My name is Sue Lyons.
2 I'm from Mansfield, Ohio, and my biggest
3 concern right now is the AK Steel plant.
4 They have fumes coming out of there that
5 smell like gas. I was sitting on my porch
6 and it made me dizzy. I laid out in 1995,
7 after they put the new caster in, and I have
8 a rash. I went to a skin specialist and
9 they don't know what it is and I can't lay
10 out in my backyard anymore.

11 There's orange dust coming out of
12 the mill. I don't know what it is. I've
13 filmed it and I've sent it to the EPA.

14 There's booms going on that are
15 shaking the foundation of my home. I live
16 right across the street from the mill. It's
17 shaking my house, my ceiling's falling in.
18 We just newly replastered it. It keeps
19 falling in.

20 I adopted a little girl, and I don't
21 want her to get sick. I don't want her to
22 get rashes. So we formed a community watch,
23 and we're going around the neighborhood to
24 ask who else is sick. Another lady got a

1 rash. She has cancer. Another lady died a
2 year ago from not being able to breathe.
3 Everybody in this community that I've gone
4 door-to-door has breathing problems.

5 I understand since 1942, we've been
6 putting up with the bad dust, but since
7 1995, they took our tax money to put the new
8 caster in, and they're not doing things
9 right that should be done.

10 The chemicals are heavy. They're
11 shutting down the filters at night. At
12 night the chemicals are heavy and the dust
13 is heavy, and I'm worried. I'm worried
14 about my children, and I know a lot of other
15 children that are sick from this.

16 And I ask you -- and I beg you, for
17 my children, and my children's children, can
18 we do something about this? They did take
19 our tax money to keep that plant going, and
20 I feel they should clean it up. If not for
21 us, why not the children? They can give
22 \$50,000 to the United fund, why can't they
23 clean it up? Thank you.

24 MR. FREY: Okay. The response is we

1 do have a Federal court case that we have
2 filed and it deals with air, water, and
3 waste violations, and we are actively -- we
4 hear that concern, definitely, and we are
5 actively pursuing that case. The Ohio
6 Attorney General is intervening.

7 Which city is this, this is
8 Middletown?

9 SUE LYONS: Mansfield, Ohio.

10 MR. FREY: This is Mansfield. We
11 have a case against Mansfield, too, we're
12 working on. I'm aware of that one as well.

13 TRISH LANAHAN: My name is Trish
14 Lanahan. My question is, I understand that
15 the Ohio EPA receives a yearly Federal
16 stipend. I was wondering how much money
17 they receive from the Ohio -- the U.S. EPA
18 or on a Federal level, and what specifically
19 that money is used for.

20 MR. FREY: Okay. Overall, I believe
21 the figure that we give Ohio for
22 environmental programs, our grant programs,
23 is about \$60 million, and I think all but
24 four million goes to Ohio EPA.

1 Now, as to the specifics of that, I
2 know it's about five million -- I don't know
3 all the details of that, but that's the
4 overall picture. Does someone want -- does
5 someone know the specifics for air, water
6 and waste in exact dollars, how we would
7 break that down? The overall figure I do
8 know.

9 JO-LYNN TRAUB: Yeah, Marcia knows
10 water.

11 MARCIA DAMATO: Yeah, I'm Marcia
12 Damato with the water division. I don't
13 know the exact amount -- I'm Marcia Damato,
14 with the water division, and I don't know
15 the exact amount, but for the water program,
16 the Clean Water Act program, it's several
17 million dollars, and one point something, I
18 believe, for the Safe Drinking Water Act.

19 MR. FREY: Willie, RCRA?

20 WILLIE HARRIS: I'm not sure of the
21 exact amount, but it's several million. I
22 think it's between four and five million a
23 year. This is on the RCRA side of the
24 house.

1 TRISH LANAHAN: Is that for air
2 programs?

3 WILLIE HARRIS: This is for
4 hazardous waste.

5 TRISH LANAHAN: How much goes
6 towards air programs?

7 CHERYL NEWTON: Bert mentioned it's
8 between five and six million that goes to
9 Ohio EPA for overall air programs.

10 TRISH LANAHAN: Okay. So my
11 follow-up would be since you've seen about
12 10 to 20 percent decrease in enforcement
13 positions and also in investigations and
14 inspections of plants that do have operating
15 air permits, aren't you curious at all as to
16 where that money is going?

17 MR. FREY: Do you want to answer
18 that?

19 CHERYL NEWTON: The Federal funds
20 that Ohio gets are actually a small piece of
21 their overall air program. The majority of
22 it is State dollars. So what we do is we
23 get a work plan that sort of covers what
24 activities they commit to for the Federal

1 funds, and they provide us with an
2 end-of-year report in terms of how they've
3 done against those commitments, and that's
4 what we review in terms of assessing whether
5 or not they've met the intent or some level
6 of commitment against what they've committed
7 to do for those Federal dollars.

8 So, you know, saying that there
9 seems to be a decreasing trend in air
10 inspections isn't necessarily tied to a
11 specific Federal funding issue but more in
12 regard to the entirety of their program,
13 which is something that we're looking at in
14 the context of a petition, which is a little
15 bit -- sort of a subset of what we would
16 look at for grant funding.

17 MR. GONZALEZ: Thank you very much
18 for your question. We'll move on to the
19 lady on the left, please.

20 JANET LAMBERT: Hi, my name is Janet
21 Lambert, and I'm from Mansfield, Ohio, and
22 my concern is AK Steel. My husband and I
23 both are having breathing trouble, and I
24 also have a granddaughter who's having

1 breathing trouble from the fumes from the
2 steel mill, and I'd like to know when it's
3 going to be cleaned up and when we're going
4 to get something done about it.

5 MR. FREY: I think that's a case
6 that the Federal government's looking into.
7 I don't know whether we have a filed case on
8 that yet.

9 Anyone know specifically about
10 Mansfield air, water, and waste?

11 I know a little bit about it, but
12 that's a case definitely we are aware of and
13 we're appropriately vigorously enforcing
14 against.

15 JANET LAMBERT: Thank you.

16 MR. GONZALEZ: Thank you.

17 Over here, sir?

18 BILL RESCH: Yes, I'm Bill Resch,
19 R-E-S-C-H. I'm with the Rocky Fork
20 Protection Task Force.

21 My question is related to this
22 gentleman about the construction NPDES
23 permit process, and my question is what
24 validity or effectiveness is there to the

1 process if to pay a fee for permit you do
2 not have to submit a stormwater pollution
3 prevention plan for it to be reviewed to see
4 if there are even any best management
5 practices in it? It's sort of a permit for
6 a fee, but there's no review of whether or
7 not it's an effective plan.

8 MR. FREY: Do you want to take this,
9 or Arnie?

10 ARNIE LEDER: Arnie Leder, water
11 enforcement compliance assurance branch.

12 The point is there are so many of
13 these permits that have to be dealt with,
14 that's why you get into a situation where
15 you issue a general permit. Normally --

16 MR. FREY: Can you hear?

17 ARNIE LEDER: Normally, while the
18 plan is not submitted and reviewed in the
19 central office, because they require
20 thousands of these plans to be reviewed and
21 approved every time somebody constructs
22 something -- the point is the facility has
23 to have the stormwater pollution prevention
24 plan. He has to implement the stormwater

1 pollution prevention plan, because when the
2 Ohio EPA gets out and conducts an
3 inspection, that plan has to be in place.
4 And/or when we go out and do an inspection,
5 that plan has to be in place.

6 So basically it's something that has
7 teeth through the enforcement process. Ohio
8 EPA, I know, has done hundreds of stormwater
9 inspections. They've probably done more
10 stormwater inspections in Ohio than they've
11 done in most of our other states in the
12 region.

13 BILL RESCH: Well, we have one
14 inspector in central Ohio for 11 counties.
15 One single inspector for 11 counties in --
16 in the Columbus, central Ohio area. So --
17 and the plans, many times, are just a
18 sediment fence around the perimeter of the
19 construction site. That's it. You know,
20 there's no checks and balances, there's no
21 review or -- it's very reactive, you know.
22 It's just a chance inspection.

23 ARNIE LEDER: Right. I know.
24 Again, Ohio is very proactive in this

1 particular area. They've done hundreds of
2 inspections of stormwater construction
3 permits. I've gone out with Ohio EPA and
4 done stormwater construction permits. This
5 is an area where they have been very active.
6 And like I said, they're more active than
7 anyone anybody else or conducted more
8 inspections in Ohio than any of our other
9 states in the region.

10 This is the kind of thing, since
11 you're in the watershed group, if you see
12 problems, if you see areas where there's a
13 discharge and the stormwater construction
14 devices are washed out and they haven't been
15 replaced, or if they're not -- not
16 effective, this is -- this is a way you
17 could help the Ohio EPA by calling in the
18 problem and suggesting they get out and do
19 an inspection on the site.

20 MR. GONZALEZ: Thank you, sir.

21 Thank you, Arnie.

22 MR. FREY: Next?

23 LARRY PUGH: Larry Pugh, P-U-G-H,
24 from Mansfield, Ohio. And my heart goes out

1 to these citizens that live around the plant
2 in Mansfield, Ohio. I've given 40 years of
3 my life to this steel plant. I know for a
4 fact when they upgraded the plant, they did
5 not upgrade the pollution systems, but all
6 the furnaces are blowing down, there's no
7 way for these pollution devices to handle
8 it.

9 At night they open all the doors to
10 the building to let the dirt escape. I
11 couldn't even see the floor. We had to shut
12 down production levels because you couldn't
13 see the crane next to the people on the
14 floor. AK Steel's bottom line is money.
15 They don't care about the people and the
16 environment and the area.

17 One thing that blew my mind at an
18 Ohio EPA meeting that we were in in the
19 Middletown area, they let the fox guard the
20 hen house. In other words, AK Steel
21 monitors their own pollution and then turns
22 in their own reports. Why in the world
23 would a Federal EPA let a corporate company
24 of the type of AK Steel monitor their own

1 reports when they're deliberately polluting
2 the air and the water?

3 (Applause.)

4 MR. FREY: I guess a general answer
5 is that AK Steel is required to monitor its
6 emissions. That doesn't mean that -- that
7 those tests will show violations, that makes
8 it easier for us to prove a violation if
9 it's basically a self-confessed violation.

10 MR. GONZALEZ: Next, please, sir.

11 KENNETH CONLEY: My name is Kenneth
12 CONLEY. There is a service station that is
13 contaminated that the State has been working
14 on a site assessment for over ten years.
15 The assessment has yet to be completed. My
16 question is why, if the State is doing their
17 job, why are they not -- the regulations
18 require the site assessment completed in 180
19 days after September the 2nd, 1992.

20 MR. FREY: This is a -- what kind of
21 case, site assessment case?

22 KENNETH CONLEY: Contam -- soil,
23 groundwater, air, you name it.

24 JO-LYNN TRAUB: Sounds like Super --

1 MR. FREY: Is it Superfund?

2 KENNETH CONLEY: I don't think

3 Superfund would clean up a service station.

4 MR. FREY: I'm just trying to find

5 out, is it air, water, waste or a

6 combination of them?

7 KENNETH CONLEY: All of them. In

8 fact, hazardous waste to boot.

9 MR. FREY: Is it a service station

10 or --

11 KENNETH CONLEY: Yes, it is.

12 MR. FREY: Okay. That's probably a

13 SPCC case, or a hazardous waste facility,

14 too. Go ahead.

15 WILLIE HARRIS: Well, it could fall

16 under our underground storage tanks program,

17 but generally --

18 KENNETH CONLEY: Let me interrupt.

19 Why would it fall under the underground

20 storage tank regulations when it's being

21 emitted into the air, it's affecting our

22 groundwater, our soil, and our hazardous

23 chemicals? Why would that fall under --

24 WILLIE HARRIS: Well, if there is a

1 petroleum release, it could contaminate
2 groundwater. I'm not sure about the other
3 part of your question.

4 KENNETH CONLEY: Well, there again,
5 the State is not enforcing these
6 regulations. They've been conducting the
7 site assessment for over ten years, and it
8 still hasn't been completed. I'm out
9 thousands of dollars because you people
10 won't do your job. And I mean you people by
11 Region 5, as well.

12 MR. FREY: Well, I'd love to know
13 what the specific site is.

14 KENNETH CONLEY: Oh, I talked to you
15 at a meeting here in Columbus before,
16 Georgia Pacific, and you were going to get
17 back with me with answers. Never did.

18 MR. FREY: Okay. Which particular
19 site is it? I really want to follow up on
20 the matter.

21 KENNETH CONLEY: Well, I'm sure you
22 know which particular site it is. All you
23 have to do is talk to anybody in Region 5 in
24 the UST section.

1 MR. GONZALEZ: Well, sir, could you
2 tell us what site it is?

3 KENNETH CONLEY: I talked to you
4 before up there, a few years back.

5 WILLIE HARRIS: UST, that's the --
6 that's the underground storage tanks
7 program.

8 MR. GONZALEZ: We will get back to
9 you, sir. I just want to make a correction.
10 You didn't speak to me because I've only
11 been here a year.

12 MR. FREY: You may have spoken to
13 me, but I think -- we want to follow up on
14 the case.

15 MR. GONZALEZ: We have your question
16 in the form of a comment and we will get
17 back to you with regards to it. And you
18 will be hearing from me, sir.

19 KENNETH CONLEY: I have a follow-up
20 question.

21 MR. FREY: Sure, go ahead.

22 KENNETH CONLEY: The same company
23 that contaminated my property was issued a
24 926-count administrative complaint from

1 Region 5. If the State of Ohio is doing
2 their job, how's come Region 5 come in and
3 issued a complaint to the State of Ohio?

4 AUDIENCE MEMBER: Do you have a mike
5 that works?

6 MR. FREY: His question was -- do
7 you want to restate it? That's fine, but it
8 was basically that we did issue an
9 administrative -- amended count complaint,
10 and if we had to issue a complaint, why
11 wasn't Ohio EPA doing its job. If that's a
12 fair --

13 KENNETH CONLEY: Exactly.

14 MR. FREY: We -- again, I wish I
15 knew the exact specific -- specifics of the
16 case.

17 KENNETH CONLEY: I'm sorry?

18 MR. FREY: If I knew the name of the
19 case, I could more easily answer.

20 KENNETH CONLEY: Well, it's British
21 Petroleum.

22 MR. FREY: BP, okay. We certainly
23 have a case against BP. We just settled a
24 case against BP, a very large case against

1 BP.

2 KENNETH CONLEY: Yeah, but did they
3 pay any money?

4 MR. FREY: Yes, they did.

5 KENNETH CONLEY: Are they still
6 doing the same violations?

7 MR. FREY: We have to check up on
8 that. Obviously there's a consent decree
9 that allows them to be in compliance. If
10 you have an instance where they're not doing
11 that, we'd be glad to know and follow up.

12 MR. GONZALEZ: Thank you, sir.

13 Just -- we have about five minutes
14 left, so we'd like to get these last final
15 ones in. Please, I encourage you to speak
16 closely to the microphone. The microphones
17 are working, but they won't work out here
18 (indicating), so you've got to get close to
19 them, okay? Thank you.

20 We have a question here, ma'am.

21 CATHY REMIAS: My name's Cathy
22 Remias, R-E-M-I-A-S. I'm with Ohio Citizen
23 Action. And there are a lot of people
24 around the state that wanted to make it but

1 they couldn't because of distance and time.
2 We originally had requested that this
3 meeting be on a Saturday, and we wanted to
4 know why you chose to have it on a weekday
5 instead of a Saturday?

6 MR. FREY: Well, first off, we
7 normally have such meetings during the week.
8 This is our normal procedure. And we would
9 normally only have one session, but to
10 accommodate the many people from Ohio from
11 all sorts of stakeholders, from industry,
12 from all the citizens groups, from the
13 governmental organizations, we want -- we
14 decided to have two sessions; one in the
15 afternoon and one in the evening.

16 We did look into having a Saturday
17 session. There are a number of difficulties
18 we ran into regarding Ohio Buckeye games,
19 and a variety of other reasons, but I
20 think -- but, anyway, I think we responded
21 to a couple others on this, but I know this
22 is an issue with all of you.

23 But this is what we decided to do
24 was to have it during the -- during our

1 normal sessions during the week here and
2 have two sessions.

3 MR. GONZALEZ: Thank you very much.
4 Sir?

5 AUDIENCE MEMBER: Yeah, my question
6 deals with what Larry Pugh asked earlier
7 about the fox and the -- and the hen house.
8 What -- what is -- what is the track record
9 of Audit Privilege Laws and how can that
10 possibly make sense?

11 MR. FREY: Oh, that's a question
12 I'll take a crack at. The Audit Privilege
13 Laws -- I spent a number of months in Ohio
14 getting Ohio -- negotiating changes to
15 Ohio's Audit Privilege Law to make sure it
16 conforms with Federal requirements. That
17 isn't to say it's a policy matter that is
18 perfect, but it at least meets minimum
19 federal requirements.

20 The track record with Ohio
21 Privilege -- Ohio Privilege Laws is really
22 kind of unknown. In many cases, if -- if
23 there are privileges, you don't know about
24 them until you have a court case and someone

1 asserts the privilege.

2 To my knowledge, the privilege has
3 been asserted in a couple cases in Ohio,
4 only. One is Waste Management in the Elda
5 Landfill case. Aside from that, I don't
6 know of any other incidences where the
7 privilege has been asserted in Ohio.

8 So the track record, I know of one
9 instance, and certainly we took steps to
10 combat the assertion of that privilege and
11 actually got the documents that we sought.

12 AUDIENCE MEMBER: Okay. Time for
13 the follow-up question. So the whole idea
14 of the EPA is to protect citizens. If we
15 can't -- we can't access information until
16 it's already not relevant anymore, then how
17 are we supposed to protect ourselves?

18 (Applause.)

19 MR. FREY: Again, I think with the
20 amendments to Ohio Audit Privilege Law, that
21 you can get the information to protect
22 yourself in almost all instances.

23 MR. GONZALEZ: Folks, these will be
24 the last four questions for this session,

1 starting with this gentleman here.

2 SKIP HALL: My name is Skip Hall,
3 and I'm from Salem, Ohio. I'd like to
4 address a question earlier about Mansfield,
5 Ohio.

6 You asked if something was being
7 done there. Well, something was supposed to
8 be done there, and that is the Ohio Attorney
9 General's office is supposed to be
10 investigating it since 1966. This is 2001,
11 and, to my knowledge, there's been no
12 investigation -- actual on-site
13 investigation took place.

14 So that -- I noticed in your little
15 presentation you said they were doing a good
16 job on the enforcement. I question that.

17 The second thing, what I really come
18 up here for was I did a file review at the
19 Logan office of the Ohio EPA about a year
20 and a half ago. And the reason I went over
21 for a file review, I was on the Internet --
22 you can't get all the information there, but
23 I seen 18 straight violations and no
24 recourse. There was no fines. They got a

1 letter. I'm wondering, what's this all
2 about? So I took a trip over there, and I
3 found quite a bit. I found that the
4 Attorney General's office had intervened and
5 was -- they were trying to arrange a consent
6 decree with AK Steel, and -- and they -- and
7 the State wanted over three quarters of a
8 million dollars in fines, and AK Steel was
9 offering \$40,000, and \$60,000 later. The
10 chronology of events that was there, how
11 long has this been?

12 MR. GONZALEZ: Do you have a
13 question, sir?

14 SKIP HALL: Yes, I have a question,
15 and we're getting right to it. The
16 chronology of events started in 1980 and is
17 still -- now the year's 2001; nothing's been
18 settled.

19 Since I was there a year and a half
20 ago, I went back last week and the
21 litigation with the Attorney General's
22 office is still the same place it was a year
23 and a half ago. The only thing that's taken
24 place is a study -- a very big study about

1 how we're going to do a study.

2 Now, my question is -- my
3 observation is -- first -- my observation
4 is, first, people are going to retire from
5 the Ohio EPA offices, people are going to
6 retire from AK Steel before this problem's
7 ever solved. In the meantime, this plume is
8 spreading through the groundwater of that
9 area. Now, my question is, can't you move a
10 little faster than this?

11 (Applause.)

12 MR. FREY: That's a very fair
13 question, and that is -- we've heard about
14 Mansfield, I think, from four or five
15 people, and that sounds to me like sort of
16 an A-number-one we'll go back and look into.
17 I already know we've looked into it, but
18 there's some matters when you're doing
19 enforcement you can't discuss publicly. We
20 know about that facility.

21 MR. GONZALEZ: Thank you, sir.

22 Last question here.

23 JEFF GODDEN: My name's Jeff Godden
24 from Geauga County, Ohio, doing the public

1 involvement thing here, getting invested in
2 my environment.

3 My question is -- I'm really glad
4 that you guys are here. I'm glad you're
5 showing some leadership, showing up. Ohio
6 has leadership, you know, Taft, Voinovich,
7 and Schregardus, and Jones -- not exactly
8 the kind of leadership that's lead to Ohio
9 being the cleanest state in the union.
10 We're, I think, Number 1 in air pollution,
11 Number 3 in overall pollution.

12 As far as -- the public can't be
13 expected to be responsible for all of this,
14 and that's why you're here. You're helping
15 us out.

16 Do you have the authority to
17 recommend a change in leadership in the Ohio
18 EPA?

19 MR. FREY: Again, our Ohio review
20 did not look at personalities. It began
21 well before -- you know, the -- in 2000,
22 well before we had a new president, well
23 before -- I mean, it's not an issue of Don
24 Schregardus or Chris Jones or Senator

1 Voinovich or former Governor Voinovich, it's
2 a matter of Ohio's processes and programs
3 that we look at, and far less people.

4 And the answer, probably, to your
5 question is, no, that's not something -- we
6 wouldn't do that. Now, that said, there had
7 been a water case or two for the City of
8 Gary in Indiana where we did recommend that
9 the management of that facility be replaced,
10 so -- and they were replaced in a consent
11 decree. But, again, after four or five
12 different contempt actions. That's a
13 specific case. This is something we
14 wouldn't do.

15 JEFF GODDEN: All right. Just to
16 follow-up on that, the reason I asked is
17 because it seemed like some of the findings
18 suggest that Ohio EPA's structure and its
19 management is somehow at fault for what's
20 sliding through the cracks in Ohio. We have
21 enough money. It's not throwing more money
22 at the problem, it's about getting more
23 organized. And I think leadership has a lot
24 to do with that. And I think Ohio has

1 demonstrated a lack of leadership in those
2 areas.

3 MR. GONZALEZ: Thank you. Thank
4 you.

5 DON FUCHS: Don Fuchs --

6 MR. GONZALEZ: Could you repeat
7 that?

8 DON FUCHS: Don Fuchs, F-U-C-H-S,
9 Cuyahoga Falls.

10 Quick question, this is -- your
11 review of the Ohio EPA, is that what this
12 criteria's about?

13 MR. FREY: Yes.

14 DON FUCHS: Very simple question,
15 from a scale of 1 to 10 -- 1 being the
16 lowest, 10 being the highest -- how do you
17 rate the Ohio EPA?

18 AUDIENCE MEMBER: Zero.

19 AUDIENCE MEMBER: Zero.

20 MR. FREY: Again, the purpose of our
21 review --

22 DON FUCHS: I don't want to hear any
23 mumbo-jumbo.

24 MR. FREY: I can't answer your

1 question. Basically the answer is our
2 withdrawal regs don't really have a 1 to 10
3 rating. They have a rating about do they
4 have an adequate enforcement program, do
5 they have an adequate permitting program.
6 It's not a question of rating Ohio on 1 to
7 10, it's a matter of looking at their
8 various programs and looking at what we have
9 found that preliminarily meet those
10 requirements for withdrawal. It's not a
11 matter of rating them 1 to 10,
12 unfortunately.

13 DON FUCHS: Do they rate high or
14 low?

15 MR. FREY: Again -- again, that
16 wasn't our -- wasn't our charge here. It's
17 not our charge in that respect.

18 DON FUCHS: You have to come up with
19 a figure to fund them, don't you?

20 MR. GONZALEZ: Thank you, sir. Last
21 question. Thank you.

22 AUDIENCE MEMBER: I would like to
23 make a statement before I ask my question.

24 MR. GONZALEZ: Perhaps you could

1 make your comment at the comment period.

2 AUDIENCE MEMBER: Please, let me
3 have my say. I came here two and a half
4 hours to say this.

5 On September the 11th, America
6 received a wake-up call. Every day on the
7 news we hear of new threats of nuclear,
8 biological and chemical warfare.

9 Even though we are concerned with
10 threats from foreign governments, we in Ohio
11 have lived with the threat of chemical
12 exposures for many years. The only
13 difference here is the chemical exposure is
14 allowed by our own State and Federal
15 government.

16 When is Region 5 going to force Ohio
17 to take care of the safety of its citizens,
18 or do the citizens of Ohio have to rise up
19 and take care of their own safety?

20 (Applause.)

21 MR. FREY: That question is a hard
22 one to answer. It's certainly -- all of you
23 are here, certainly helpful to us, and it's
24 helpful to us in getting a better program

1 for pollution control in Ohio.

2 That -- the involvement of the
3 citizens is a key factor in that. Many of
4 our folks -- some of our people from
5 Region 5 have monitored for Anthrax in both
6 New York and Washington, D.C., so we have
7 people that work for EPA that go anywhere,
8 anytime. Some people went to Kuwait to deal
9 with environmental problems.

10 AUDIENCE MEMBER: It's too bad that
11 our government doesn't treat our own
12 government the same way they're treating the
13 Taliban. It's too bad they don't get
14 treated the same way, because our government
15 is criminals that is allowing our
16 grandchildren to die, and we are tired of it
17 in Ohio. Put the Ohio EPA out of business
18 or clean them up.

19 (Applause.)

20 MR. GONZALEZ: Thank you. That
21 concludes the question-and-answer period.
22 Thank you very much for all those who
23 participated in that. That was extremely
24 worthwhile to us.

1 We would like to proceed now with
2 the comment period, ladies and gentlemen.

3 Some of the ground rules for the
4 comment period: Every one should have -- I
5 know you've heard this probably three or
6 four times now. Everyone should have a card
7 with a number on it. We do have a left and
8 right microphone. Left for odd numbers and
9 right -- your right, your left -- for the
10 even-numbered cards.

11 Folks, to accommodate as many -- I
12 just got a figure, so we're going to have to
13 work this out somehow here, it appears we
14 have about 80 people who want to make
15 comments, so we've allowed like three
16 minutes per comment.

17 Incidentally, while we're at it,
18 while you're making your comment, when you
19 get to that two minutes and 30 second
20 period, when you have about 30 seconds left,
21 one of our staff people at the microphone
22 will flash you -- or put in your vision, I
23 should say -- a pink card that says you've
24 got 30 seconds, please finish your thought,

1 finish your sentence. And this way it sort
2 of gives you an idea where you stand.

3 Now, let me explain this to you,
4 this next procedure. This has to do with
5 those of us -- those of you who would like
6 to give the opportunity of someone else
7 taking your three minutes to speak, okay.
8 So these are the ground rules for that
9 process.

10 It's okay with us if you want to
11 give somebody else that opportunity, but
12 let's assume we have 100 people who want to
13 make a comment. If you pass -- if you're
14 one of those 100 people, if you give your
15 opportunity for that person to speak, that
16 person will have to wait until the 100
17 people make their comment first. We feel
18 that's only fair.

19 After that 100 number -- it's not a
20 hundred, by the way, but it's close -- we'll
21 take them in order. So if Number 3 gives up
22 his or her number, that person will be
23 probably the first one if one and two speak,
24 okay.

1 Incidentally, only -- if you give
2 that person a number, no one can receive
3 more than one number. So, theoretically,
4 you can only really speak for like six
5 minutes, okay.

6 And actually, theoretically, if we
7 have any time left -- and probably I would
8 say we're not going to have any time left,
9 because it appears we have like 80 people
10 who want to make comments -- so, you know,
11 three minutes, and the balance of the time
12 we have left over, we're willing to extend
13 the time period to accommodate as many
14 comments as we can.

15 We encourage you, ladies and
16 gentlemen, to please take advantage of the
17 other court reporter in the Palermo Room.
18 This way we are sure of getting all your
19 comments. Your comments are important.
20 They will also require an answer, so we
21 really do want your comments.

22 So, with that, I think I have
23 covered this portion. With that, then, we
24 would like to invite you -- invite those

1 that have comments starting with 1, 2, 3 at
2 the -- 1, 3, 5 at the odds, and so forth,
3 and 2, 4, 6 at -- at the even numbers.

4 If we could begin that process.
5 And, again, for those of you who just might
6 run out of time or have to pick up the kids,
7 or whatever, please use the other court
8 reporter in the Palermo Room. There is
9 someone there. You will need your number
10 for that, also. There will be a staff
11 person there taking your number, and you can
12 do it in privacy, and we can process it that
13 way.

14 With that, we begin with Number 1.

15 MARY ANN BAKER: Mary Ann Baker.
16 I'm from the Darke County, Mercer County
17 area, been working with the EPA for about 20
18 years now, directly. Half the farms,
19 commercial farms, are in Darke or Mercer
20 County. Half of them are there, okay. This
21 week, November the 8th, the EPA investigated
22 whether or not to issue a violation notice
23 on Union City Road, a EPA spokeswoman said
24 this morning the river's running red.

1 Mercer County Emergency Management, Emma
2 Soyer, was there this morning to investigate
3 the results. EPA deputy director, Wanda
4 Dickie, said 600,000 gallons of egg wash --

5 MR. GONZALEZ: You're going too
6 fast.

7 MARY ANN BAKER: Three minutes.

8 MR. GONZALEZ: Don't blame me.

9 MARY ANN BAKER: -- applied to the
10 farm field. The wash then entered the farm
11 tile, went to the Wabash River. It emptied
12 into the Wabash River, went several miles,
13 and I'm wondering if it's going to go to
14 Indiana. They'll have a better idea of
15 the -- if there's a violation. They've got
16 to go count fish.

17 A subcontractor apparently applied
18 600,000 gallons of wash to 50 to 20 acres of
19 land within ten feet of the creek. Review
20 of the EPA records showed the poultry farm
21 has no prior violations nor have EPA
22 officials received any complaints about it.

23 This is a real showplace. Their
24 manure handling place is state of the art.

1 This is really a farm that has a history of
2 doing things the right way. That's the
3 conclusion here.

4 Now, let me tell you EPA, don't
5 count the fish in that river. The countable
6 fish have been dead. They've been dead for
7 about ten years. You're not going to find
8 any fish in there that's countable. You've
9 got to set up a new rule and regulation. It
10 is a joke. The next thing is they've got
11 all kind of accolades here. This is a
12 state-of-the-art farm here. That's what
13 this paper says, okay.

14 So they've got college people, their
15 corporation, they have computers in their
16 home, they have computers in their barns,
17 they have computers in the tractor. They
18 can tell you how much moisture's in the
19 ground at any given time. They didn't know
20 where 600,000 gallons of egg wash was going?
21 They didn't know?

22 There's not going to be anything
23 filed here because of all of this. You're
24 saying the neighbors didn't report anything.

1 You're right. We've been like this forever.
2 Their neighbors are relatives, Godchildren,
3 uncles, aunts. They're two and three
4 generation farmers. They don't rat on each
5 other.

6 For 20 years, that river's gone
7 downhill, and that's with the help of EPA.
8 20 years it's gone downhill. My side of the
9 world has lost ground because -- and you
10 guys keep talking about EPA's commitment.
11 They're not -- they're not committed here.
12 We are committed to the farm bureau,
13 exactly, and there's -- yes.

14 And thank you very much.

15 MR. GONZALEZ: Thank you very much.

16 Thank you very much.

17 Speak close to the microphone,
18 please.

19 THERESA MILLS: Can we get it out of
20 my nose?

21 MR. GONZALEZ: It's your mouth we're
22 interested in.

23 THERESA MILLS: But I'm not that
24 tall.

1 Welcome to the great state of Ohio.
2 Ohio, home of the Ohio Environmental
3 Protection Agency, a wholly-owned subsidiary
4 of the industry they claim to be regulating.

5 I am here to testify on behalf of
6 the lady that lives down the street from the
7 local chemical company whose children can't
8 play outside because the odors that the
9 plant emits make them sick. She can't
10 understand why her children have problems in
11 school or are hyperactive. Some days she
12 will ask what is that smell and is this
13 hurting my children. She will ask this
14 question of the Ohio Environmental
15 Protection Agency. This is when her
16 nightmare will begin.

17 She, like many Ohioans, think that
18 the Ohio EPA is there to protect them.
19 Little does she know that Ohio EPA -- that
20 just the opposite is true. Ohio EPA is
21 there to protect the industry.

22 At this point, I do not know what
23 this lady's name is or I do not know what
24 town she will come from, but we will know

1 soon. She will experience Ohio EPA the same
2 way that all of these people in this room
3 have experienced the Ohio EPA.

4 These people will tell you their
5 experience in dealing with Ohio EPA. They
6 have dealt with the typical run-around that
7 the agency has given them. They have been
8 lied to, they have been put down, and they
9 have been ridiculed. They have experienced
10 environmental racism, environmental
11 classism, and selective enforcement.

12 You ask how I know that this is what
13 will happen when the lady down the street
14 from the chemical company calls the Ohio
15 EPA? Because six years ago, I was that
16 woman.

17 To make a long story short, my
18 community turned to the U.S. EPA, and -- for
19 help in dealing with the Columbus trash
20 burning power plant when Ohio EPA would do
21 nothing. An Ohio EPA inspector said to me,
22 but, Theresa, I don't understand, I don't
23 drive by the plant and see people falling
24 over dead.

1 After the plant closed in 1995, I
2 received calls from across the state asking
3 for help with this industry or that toxic
4 dump, and in the last six years, I have had
5 to turn to the U.S. EPA for help in nine
6 communities.

7 As you sit here today, before the
8 citizens of the state of Ohio, listen to
9 them with an open mind and a caring heart,
10 because people don't care how much you know
11 until they know how much you care. Citizens
12 have spent hundreds of thousands of dollars
13 out of their own family budget to protect
14 their children from environmental hazards.
15 My federal dollars, tax dollars, would be
16 better spent by funding these people in
17 place of the Ohio EPA. These citizens are
18 the real protectors of Ohio's environment.

19 (Applause.)

20 MR. GONZALEZ: Thank you. Theresa,
21 can we have your last name for the record,
22 please.

23 THERESA MILLS: Mills.

24 MR. GONZALEZ: Thank you, Theresa

1 Mills.

2 Next, sir?

3 STEPHEN GABOR: My name is Stephen
4 Gabor. I'm with Ohio Citizen Action.

5 MR. GONZALEZ: You have to get
6 closer to that microphone.

7 STEPHEN GABOR: Sorry. I've been
8 asked to read a letter on behalf of Jerri
9 Kraus from the North Avondale Neighborhood
10 Association. She's the clean air chair --
11 or the chair of the clean air committee.
12 This is addressed to Robert Paulson, who is
13 with the office of public affairs, the U.S.
14 EPA.

15 Dear Mr. Paulson, since I will not
16 be attending the public hearing on November
17 13th, 2001, in Columbus, Ohio, regarding the
18 review of the Ohio EPA, for reasons stated
19 below, I am submitting this letter.

20 At a public hearing held in
21 Cincinnati, Ohio, by the U.S. EPA Region 5,
22 on February 10th, 2000, I, as chair of the
23 North Avondale Neighborhood Association
24 Clean Air Committee, related our

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 neighborhood's experience with the Ohio EPA
2 regarding nearby industries that are legally
3 releasing toxic materials into the ambient
4 air.

5 I stated that the Ohio EPA does not
6 adequately enforce laws regulating toxic
7 emissions into the air. As an example, a
8 letter from Ohio EPA to North Avondale
9 Neighborhood Association was submitted.
10 This letter dated February 5th, 1995, was in
11 response to a verified complaint against
12 Cincinnati Specialties, Incorporated, sent
13 to Ohio EPA on November 3rd, 1989, over five
14 years earlier by CAC member Terry
15 Thinehouse.

16 Ohio EPA, in its letter,
17 acknowledged violations by Cincinnati
18 Specialties regarding toxic air emissions,
19 but stated that while Cincinnati Specialties
20 was, quote, at one time in violation of Ohio
21 EPA regulations, it is now in compliance and
22 future violations are unlikely to occur, end
23 quote.

24 Ohio EPA has never informed us about

1 its methods of investigating violations, nor
2 how it inspects the facility to determine
3 whether violations are occurring, nor how it
4 is so confident that, quote, future
5 violations are unlikely to occur, end quote.

6 Despite Ohio EPA's assurances, to
7 this day, North Avondale residents still
8 complain about incidences of the legal
9 chemical releases into the air from this
10 company.

11 Even today, Ohio EPA continues to
12 ignore environmental policies and laws with
13 which it has been entrusted by the U.S. EPA
14 to enforce.

15 In violation of U.S. EPA policy on
16 environmental justice and in violation of
17 Title 6 of the 1964 Civil Rights Act, and in
18 violation of requirements that the track
19 record of permit applicants be considered,
20 the Ohio EPA granted in February, 2001, a
21 permit to Waste Management, Incorporated,
22 reputed to be the world's worst law breaker,
23 to install a solid waste transfer station in
24 the Winton Hills neighborhood on the site of

1 the Elda Landfill.

2 I'll submit the rest of this.

3 MR. GONZALEZ: Thank you very much.

4 I appreciate that.

5 Folks, again, I want to remind you
6 we do have a court reporter in the Palermo
7 Room if you so desire.

8 Sir, you're up next.

9 ALONZO SPENCER: My name is Alonzo,
10 A-L-O-N-Z-O, Spencer, S-P-E-N-C-E-R.

11 Before I read my remarks, I would
12 like to address a question that was raised
13 earlier about the recommendation of the U.S.
14 EPA's ombudsman when he said that the WTI
15 facility should be shut down no longer than
16 six months. The response to that question
17 was incorrect.

18 The reason that that was not
19 implemented is because the U.S. EPA did not
20 accept that recommendation. It had
21 absolutely nothing to do with any
22 information that came in after his
23 recommendation was submitted. I wanted to
24 make that correction.

1 Under Section 3706.19 of the Ohio
2 Revised Code, the office of ombudsman for
3 the small business, stationary source
4 technical and environmental compliance
5 assistance program was created. Under
6 Section 3704.18 of that code, the office
7 exercised its duties independently of any
8 other State agency.

9 This program was never intended to
10 serve any other function than as an advocate
11 and assistance provider for small businesses
12 attempting to comply with new regulations.

13 Unfortunately, this legislation
14 completely ignores any assistance to
15 citizens and citizen groups involved in
16 combating facilities from locating in their
17 communities that they deem either illegal or
18 undesirable.

19 To underscore its bias, the
20 legislation created in the State treasury
21 the Small Business Ombudsman Fund, which
22 consists of monies transferred to it from
23 the Clean Air Fund created under Section
24 3704.035 of that code. Monies in that fund

1 shall be used exclusively for the purpose of
2 this section.

3 Again, no help, including financial
4 help, is provided to those citizens to
5 assist in protecting their health and safety
6 and improving their daily lives. The draft
7 report on review of Ohio programs recommends
8 Ohio EPA may want to consider the creation
9 of an ombudsman similar to the one utilized
10 by the U.S. EPA. We support this
11 recommendation. However, we strongly
12 recommend that the ombudsman must have both
13 actual and apparent independence from any
14 person who may be the subject of a complaint
15 or inquiry, including the Ohio EPA itself.

16 Time will not allow me to address
17 two other major concerns that trouble our
18 organization. They are the permit renewal
19 process and the on-site inspectors whose
20 salaries are being subsidized by the
21 facilities they are monitoring.

22 I hope at some later date to have
23 the opportunity to go into this in greater
24 detail to discuss our concerns regarding

1 these vital issues.

2 Thank you for the opportunity for me
3 to present these remarks, and we look
4 forward to the U.S. EPA's final draft on
5 Ohio EPA's environmental programs. Thank
6 you.

7 MR. GONZALEZ: Thank you, sir. And
8 we appreciate your comments.

9 Folks, I've noticed lots of folks
10 have written comments that they're reading
11 from. If you don't get through your
12 comments while you're up here, there's a box
13 out front; please turn them in.

14 Again, I encourage you, also, to use
15 the other court reporter in the Palermo
16 room. With that, we go to this gentleman.

17 STANTON THATCHER: My name's Stanton
18 Thatcher, T-H-A-T-C-H-E-R, from Ohio Citizen
19 Action. I'm reading on behalf of Datha
20 Brashear from Middletown, Ohio.

21 She says -- it's addressed to
22 Mr. Paulson -- I am unable to attend the
23 public meeting on November 13th. I have
24 lived in the Oneida neighborhood, right next

1 door to AK Steel Middletown's coke plant for
2 23 years. I have unending problems with
3 dust, soot, and fallout from AK Steel. My
4 health has been badly affected by living
5 with the pollution from this facility.

6 In October, 1995, I had a heart
7 attack while I was in Tennessee. After
8 doing an angiogram on me, the doctor told me
9 I had to be a smoker because of all the tar
10 in my veins. I told him I never smoked in
11 my life, and now I'm on all kinds of heart
12 medicine.

13 Around Easter of 1991 I had a
14 hysterectomy. Thirty-two tumors were
15 removed from my body. The next year, in
16 March, '92, tumors were removed from my
17 bowel. My doctor told me that I would have
18 been dead in three months if they had not --
19 or if I hadn't been so lucky to have
20 detected the tumors when they did.

21 Now I'm losing my hair by the
22 handful, and I wonder if this isn't also
23 being caused by AK Steel, either from
24 pollution or from my nerves being shot by

1 having to live with the upset of all this
2 pollution.

3 When my family came to visit from
4 Florida, they wouldn't let their children
5 play outdoors because of the pollution. I
6 cannot sit on my porch, and my grill is
7 still in the box. I've never used it.

8 AK Steel has pretty much admitted to
9 creating a nuisance. Over the past several
10 years, AK has paid for my car to be washed,
11 my house pressure-washed, my front porch and
12 shed to be painted.

13 When will the Ohio EPA enforce the
14 air pollution laws? Will I die before this
15 problem gets cleaned up? How many of my
16 neighbors have already died from this
17 terrible pollution? Will you send me
18 answers to these problems?

19 Thank you. Datha Brashear.

20 MR. GONZALEZ: Folks, we changed the
21 box location for your written comments.
22 They happen to be over here right now. The
23 box is over here at the end of this table.
24 So if you so desire, please just feel free

1 to come around and drop them in here.

2 Okay, ma'am.

3 CAROL OFSTEAD: Carol Ofstead, and
4 I'm with the Committee Opposed to Ruining
5 the Environment, known as CORE, and I'm here
6 to give testimony to the history of the
7 Hardy Road Landfill in Summit County and
8 3734 and 6111 of the Ohio Revised Code,
9 which are the solid waste laws.

10 First, some background regarding the
11 landfill in our community. The Hardy Road
12 Landfill was opened in 1970 and was operated
13 by the City of Akron until 1998 when Akron
14 turned over the operation to Waste
15 Management, Incorporated. The landfill is
16 required to be closed June, 2002. This
17 landfill is located at the edge of the
18 Cuyahoga Valley National Park, a treasure of
19 our state.

20 My concern, and that of my
21 community, is the many violations and
22 deficiencies noted during the 30 years of
23 operation have not been addressed in a
24 timely manner and possibly never will be.

1 I will outline some of the more
2 serious concerns and issues. These concerns
3 involve off-site migration of landfill gas,
4 off-site migration of landfill leachate,
5 degradation of surface water due to erosion,
6 and leachate contamination.

7 First, there is location of gas
8 migration and a lack of an adequate plan to
9 contain polluting of gases. In 1984, a
10 house near the dump blew up, exploded,
11 resulting in the condemning of 11 houses.
12 11 families lost their homes. Notice of
13 violation letters dated in 1997 noted that
14 the explosive gas monitoring plan was
15 outdated and needed revision.

16 Later, inspection letters also noted
17 deficiency of the explosive gas monitoring
18 plan. And I will quote from a letter: All
19 gas migration pathways within a thousand
20 foot radius to the limits of waste placement
21 must be identified. Problems with landfill
22 gases seem to still exist as the fire
23 department was called to this site this year
24 when meters registered explosive levels of

1 gas.

2 One of the problems is the
3 identification of gas migration is the
4 boundaries of the solid waste have never
5 been delineated. This boundary problem was
6 highlighted in deficiencies noted in a new
7 PTI submitted in the year 2000 for a
8 non-contiguous expansion of the old
9 landfill.

10 Also, in many of the NOV letters,
11 there was noted overfill areas on the north
12 slope. I appealed to the U.S. EPA to fix
13 these situations of gas migration and
14 enforce the existing rules and assist on a
15 plan to define the accurate limits of waste
16 and then remedy these situations.

17 Another troubling issue is the 2001
18 consent decree entered into the city -- with
19 the City of Akron to supposedly come to
20 terms with the history of environmental
21 violations at Hardy Road Landfill. The
22 agreement is seriously flawed. Probably the
23 biggest flaw is the language in the document
24 does not say the deficiencies will be

1 addressed to the satisfaction of the Ohio
2 EPA.

3 The practice of Ohio EPA does not
4 lead to resolution of violations,
5 enforcement in our area appears to be
6 minimal, and it probably reflects the
7 practices of the Ohio EPA across the state.

8 I will turn my testimony in plus the
9 documents that I have quoted here.

10 MR. GONZALEZ: Thank you very much.

11 CAROL OFSTEAD: Thank you.

12 MR. GONZALEZ: We really appreciate
13 it.

14 Folks, I want to remind you again,
15 the Palermo room can take some comments,
16 anytime you're ready.

17 Sir, you're up.

18 AARON KOONCE: Hello. Aaron Koonce,
19 A-A-R-O-N, K-O-O-N-C-E. I'm here on behalf
20 of Ohio Citizen Action Cleveland phone staff
21 and the 100,000 Citizen Action members
22 statewide that we speak with daily.

23 Our purpose is to communicate with
24 our membership the progress of the campaigns

1 that they're supporting. As the Region 5
2 office is aware, we've been working to
3 reform the Ohio EPA, but this is not the
4 only campaign we've taken on.

5 We've worked also to make sure that
6 the students at the River Valley Schools
7 outside of Marion are moved to a new campus
8 because an unusually high number of
9 graduates have contracted leukemia. But the
10 Ohio EPA illegally removed the chief
11 investigator, and even though Ohio EPA was
12 forced to reinstate him, the agency
13 continues to fight whistle blower
14 protections in court.

15 We've also worked with the citizens
16 of East Liverpool, Ohio, to stop the WTI
17 incinerator from burning hazardous waste
18 1,100 feet from East Elementary School. A
19 report by the U.S. EPA ombudsman last autumn
20 showed Ohio EPA has known since 1996 that
21 WTI had rigged its safety tests to get
22 favorable results. Ohio EPA to date has not
23 acted on a 1994 RCRA permit renewal
24 submitted by WTI, even though Region 5 asked

1 Ohio EPA to expedite its review of the
2 permit application.

3 When we tell our members about WTI
4 and River Valley Schools, they usually want
5 to know where the EPA is. Our members
6 wonder if Ohio EPA will allow WTI to avoid
7 accountability, how can they believe that
8 the EPA will hold AK Steel or Buckeye Egg
9 Farm accountable? How can we have faith in
10 an agency that will dismiss the welfare of
11 school children so readily?

12 You have the task of restoring faith
13 in an agency that has demonstrated contempt
14 for the law time and again through its
15 failure to investigate serious violations of
16 the environmental law and the systematic
17 dismissal of citizen's concerns for the
18 safety and well being of their families.

19 So we brought you a gift -- if you
20 guys are ready -- we have over 6000 letters
21 that we collected in two months. They're
22 addressed to Christine Whitman, as you know,
23 the head of the federal EPA.

24 We ask you to consider those letters

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 in conjunction with the over 3000 letters we
2 previously submitted to Region 5 from Ohio
3 Citizen Action members statewide who are
4 asking that you take appropriate steps to
5 reform the Ohio EPA and restore the
6 credibility and effectiveness of the agency.

7 MR. GONZALEZ: Thank you very much.

8 MARTIN COOK: Martin Cook,
9 M-A-R-T-I-N, C-O-O-K, and I'm representing
10 Citizens for Water, from Clark County.

11 Some of the deficits of the Ohio EPA
12 include the following: A failure to enforce
13 anti-degradation rules. In its request for
14 a permit to install the Danis-Clarkco
15 10-million-ton landfill, Danis totally
16 ignored the issue, yet the OEPA issued a
17 permit to install.

18 Chapman's Creek, adjacent to the
19 closed and failed Tremont landfill and
20 barrellfill, has continuing deterioration.
21 It drains into the Mad River and its
22 aquifer, sole source of Springfield's water
23 supply. No remedy has been offered. There
24 is no evidence that degradation can be

1 justified by important economic or social
2 development factors.

3 20 percent of Clark County's waters
4 have impaired or threatened status. OEPA
5 had years of complaint of offensive odors
6 and quite likely toxic releases from the now
7 closed Tremont Landfill and adjacent
8 barrellfill which, incidentally, has 47,000
9 barrels which are now deteriorating. No
10 serious effort was ever made to investigate
11 the nature of these emissions or to correct
12 them.

13 OEPA fails to enforce the Clean Air
14 Act. Clark County ranks in the top ten of
15 all counties in the USA in terms of
16 person-days in exceedence of national
17 ambient air standards for ozone.

18 The OEPA disregards its own rules.
19 It issued a permit to install for the
20 Danis-Clarkco 10-million-ton landfill even
21 though Ohio code prohibits siting over an
22 aquifer capable of being pumped at 100
23 gallons a minute for 24 hours. This aquifer
24 was pumped at 197 gallons per minute for 72

1 hours and has a probable capacity of 300 to
2 400 gallons per minute.

3 Urbana, Ohio, was told by the Ohio
4 EPA quote, no problem, in full compliance,
5 yet in four wells southwest of Urbana,
6 tetrachloroethylene levels five times the
7 acceptable standard were found.

8 More than 42 percent of Ohio's
9 waters are unsuited for public use. We rank
10 among the states number three in release of
11 toxic inventory chemicals; number five in
12 toxics dumped.

13 OEPA is too often nonresponsive to
14 citizen complaints. All too often they
15 respond favorably to the demands of the
16 waste industry. It exemplifies regulatory
17 capture in which the regulatory agency has
18 become subservient to the entities it's
19 supposed to regulate.

20 The OEPA has demonstrated that it's
21 incapable of properly enforcing regulations.
22 Its authority in enforcing federal
23 regulations should be withdrawn.

24 (Applause.)

1 MR. GONZALEZ: Thank you, sir.

2 I just want to review with you real
3 quickly, that gentleman was Number 10 over
4 here on the right, and on the left, the last
5 person was actually Number 7.

6 Now, theoretically, we are -- some
7 of the other numbers could have gone to the
8 Palermo room, but the next number -- the
9 next two numbers should be 9 and 12. Is 12
10 here? You're up next.

11 STAFF MEMBER: Well, odd should be
12 next, actually.

13 AUDIENCE MEMBER: 11.

14 STAFF MEMBER: 11 should be here.

15 MR. GONZALEZ: Oh, okay, right. 11
16 over here, but 12 over here.

17 STAFF MEMBER: Is 11 ready?

18 MR. GONZALEZ: I don't know. 11
19 theoretically could have gone to the other
20 room. We're checking on those numbers now.
21 But Number 11 could come up here if that
22 person is here now.

23 ELIZABETH CHUMLEA: I'm Elizabeth
24 Chumlea. I'm also from Clark County in

1 Ohio.

2 MR. GONZALEZ: You've got to speak
3 close to that.

4 ELIZABETH CHUMLEA: I know. It's
5 hard to read and speak.

6 The Ohio EPA has a mandate to
7 protect Ohio citizens from the effects of a
8 despoiled environment. Unfortunately, in
9 Ohio, it is often those endangering public
10 health who are protected. However, I do not
11 believe that replacing one regulatory agency
12 with another is the optimum solution.

13 Only by removing impediments to
14 effective environmental protection can we
15 hope to provide any meaningful remedy to
16 agency malaise. Those impediments are
17 political. As long as both the State and
18 Federal EPA are ruled by political
19 appointees, their missions will be in
20 continual danger of derailment.

21 Elected officials, dependent upon
22 campaign contributions from industry, have a
23 manifest conflict of interest when selecting
24 chiefs for the regulatory agencies tasked

1 with oversight of those industries.

2 Ohio regulatory laws contain obvious
3 loopholes that reveal a preference for
4 industry, not public health. As an example,
5 I cite the Enon, Ohio, public well field
6 which has been contaminated since at least
7 1985 with VOCs.

8 Despite Ohio EPA's early
9 identification of the source of
10 contamination as an adjacent industrial
11 property, the owner has never been placed
12 under any legal obligation to clean up the
13 Enon well field.

14 As a consequence, Enon is seeking a
15 new well field to be developed at public
16 expense. Unfortunately, the new site is
17 likely to be situated in close proximity to
18 both an active railroad and I-70. Ohio EPA
19 is helpless to intervene.

20 In Ohio, the source protection is
21 recommended but not enforced. New well
22 fields can be sited near industry and new
23 industry is allowed to encroach upon
24 existing well fields. In Ohio, short-term

1 financial gain shortchanges future
2 generations.

3 Testing and sampling is another area
4 of concern in Ohio. Enon has three public
5 wells, two of which have suffered most from
6 proximity to the aforementioned plume of
7 VOCs.

8 By law, Enon must test its drinking
9 water from the point of distribution on a
10 quarterly basis. However, to be in
11 compliance, Enon could pump from the least
12 contaminated well when sampling from the
13 distribution point.

14 In Ohio, if each well is pumped
15 separately on different days of the week,
16 then the public could theoretically drink
17 from wells with contamination levels above
18 the MCL on every day of the year except
19 those four when the least contaminated well
20 is pumped and sampled.

21 So in Ohio, the water seller is
22 trusted to provide safe water to the public
23 with no meaningful oversight, while the
24 public is gifted with a false sense of

1 security.

2 My personal experience with the Ohio
3 EPA has been positive, but I recognize that
4 the agency is crippled by poor funding,
5 limited staffing, lax regulatory law, and
6 unscrupulous political meddling and threats.

7 In search of a solution, I have four
8 recommendations. First and foremost, free
9 the OEPA of any politically-appointed head
10 and potential fifth column. Second, provide
11 for cooperative efforts between the State
12 and Federal EPA, giving the Federal agency
13 increased oversight when warranted. Third,
14 promote local political and legal action.
15 Finally, encourage other conservative
16 Republicans like myself to seek improved EPA
17 funding and regulatory law in both Ohio and
18 the nation.

19 (Applause.)

20 MR. GONZALEZ: Thank you, ma'am.

21 Number 11 is next. Before -- before
22 Number 11 goes, the next two numbers will be
23 13 and 14.

24 SARAH WIDO: My name's Sarah,

1 S-A-R-A-H, Wido, W-I-D-O, I'm with Ohio
2 Citizen Action. I have a letter here from
3 Nancy Cottle, who couldn't make it today.
4 It's for Robert Paulson.

5 It says, my family has lived in the
6 Oneida area since 1974. 27 years of the
7 dirt and grime AK Steel has put out. It's
8 not any better now than then. The black
9 soot that gets all over your house, your
10 patios, cars, and anything left out for any
11 length of time. We breathe this stuff all
12 these years and one can only imagine what
13 our lungs look like.

14 The EPA hasn't done anything to get
15 rid of the black -- the black and silver
16 dust or the odor. So I called EPA on
17 October 3rd. Gerald Portman came out and
18 took a sample and said we would have the
19 results in about a week. We still haven't
20 heard anything about this.

21 MR. GONZALEZ: Thank you.

22 Who's next?

23 STAFF MEMBER: Even number.

24 MR. GONZALEZ: An even number.

1 Where's Number 14, Number 16?
2 STAFF MEMBER: 15.
3 MR. GONZALEZ: Or how about
4 Number 15, 17?
5 STAFF MEMBER: 13's over here.
6 MR. GONZALEZ: 13's over here, okay.
7 I missed 13.
8 AUDIENCE MEMBER: I'm 13.
9 MR. GONZALEZ: Then we need a 14
10 over here.
11 AUDIENCE MEMBER: Why don't we have
12 at least two people standing at the mikes.
13 MR. GONZALEZ: That's what we're
14 trying to do. 15, 16, 17, 18. We have
15 extra chairs that you can sit down if you
16 don't want to stand. Are we ready?
17 DAVID ALTMAN: Good afternoon.
18 Thank you for --
19 MR. GONZALEZ: You have to get it
20 closer to your mouth.
21 DAVID ALTMAN: Okay. Thank you.
22 Thank you for having this meeting. We're
23 grateful for the weekday if we couldn't have
24 a Saturday. And we're sorry that a lot of

1 people couldn't be here.

2 I wanted to respectfully disagree
3 with the summary given of the RCRA and waste
4 parts of your report. And I was trying to
5 think in three minutes what -- what one
6 illustration would best say what's wrong
7 with what you -- at least in your -- you
8 have concluded, apparently concluded, based
9 on your statements.

10 In 1990, a company called Vernay
11 Laboratories in Yellow Springs, Ohio, had a
12 series of contaminated releases into the
13 environment. It told part of the story
14 about those releases to the Ohio EPA, and in
15 that same year in a memo to the company
16 president, the head of their environmental
17 office said that we're not going to do more
18 than what the Ohio EPA makes us do.

19 The Ohio EPA, over the next nine
20 years, had a lack of curiosity as to the
21 extent of the contamination and the
22 problems. However, they did make
23 inspections, and during those inspections,
24 they fined the company twice for paperwork

1 violations, but never caught on to the big
2 problem.

3 It turned out there was site wide
4 contamination during that ten-year period,
5 and that contamination emanated into the
6 community beyond the grounds of Vernay
7 Laboratories, and well into the community to
8 an extent yet undetermined.

9 Frankly, the citizens who live near
10 that site, the environmental justice
11 community, decided to donate and did donate
12 about a million dollars' worth of what has
13 now been theoretically compensated time to a
14 citizen lawsuit to uncover the full truth.

15 It turned out the drains were the
16 problem. The Ohio EPA inspection team never
17 asked about the drains, or if they did, they
18 were all too quickly mislead about the
19 drains.

20 The company has now entered into a
21 consent decree, and those citizens are
22 willing to spend and have brought to the
23 table hundreds of thousands of more dollars
24 to work with the Ohio -- U.S. EPA,

1 ironically, with the agreement of the
2 defendant and the citizens in order to get
3 this site cleaned up.

4 With that record, it should -- you
5 should ask yourself, how have we given such
6 glowing remarks, had such glowing comments,
7 such a glowing evaluation when that story is
8 indicative of many other similar stories in
9 Ohio?

10 The OEPA hasn't done its job at
11 Vernay and many other places in the RCRA
12 area. They have not detected these sites
13 which are not in compliance and not -- not
14 attempting to comply. And the Ohio EPA,
15 when this story ran in The Columbus Dispatch
16 about these comments, did not even bother to
17 raise any questions.

18 I'm going to submit the company
19 memos into the record which illustrate these
20 facts. Thank you.

21 MR. GONZALEZ: Thank you, sir. Your
22 name, sir?

23 DAVID ALTMAN: Yes, David Altman,
24 A-L-T-M-A-N, Cincinnati, Ohio.

1 MR. GONZALEZ: Then we have
2 Number 16 over here.

3 STAFF MEMBER: 14.

4 MR. GONZALEZ: No, he's Number 16 --

5 STAFF MEMBER: We have 15 over here.

6 MR. GONZALEZ: 14 didn't come up
7 when we called her.

8 STAFF MEMBER: So 15's next.

9 MARY JO MUSER: Mary Jo Muser,
10 M-U-S-E-R, with Ohio Citizen Action. I'm
11 reading a letter on behalf of Clifford
12 Schearer, S-C-H-E-A-R-E-R, dated November
13 12th, 2001. It's to Mr. Paulson.

14 I'm unable to attend the public
15 meeting on November 13th. Please enter this
16 statement into the record. I have lived in
17 Butler County all my life and have lived in
18 Oneida for 29 years. I live within one half
19 mile of the AK Steel coke plant.

20 I joined the South Middletown
21 Volunteer Fire Department in 1964 and was a
22 volunteer firefighter for almost 20 years.
23 I was an assistant chief for a number of
24 years and became chief of the volunteer fire

1 department. As a firefighter, I worked on
2 two fires in Armco-AK oil pits. These pits
3 were where the company dumped its used oil.
4 They are at the old company landfill located
5 at the juncture of Dick's Creek and the
6 Conrail railroad tracks.

7 Bulldozers were used to push soil
8 and garbage into the oil field pits from big
9 piles. The garbage included 55 gallon drums
10 of many unknown types of chemicals, oil,
11 grease, machine parts, et cetera.

12 Fires broke out after some 55 gallon
13 drums of the chemical -- I believe it was
14 sodium manganese or magnesium -- was pushed
15 into the pits. The smoke was very thick and
16 oily. I breathed in the smoke from these
17 fires while fighting them.

18 I would like to know how much of the
19 waste oil and smoked chemicals sank into the
20 groundwater. I used to walk by Dick's Creek
21 and would see oil slicks on the water.

22 I also worked on three fires at
23 Armco's spiral pipe coating factory. This
24 is where they would use tar to coat pipes.

1 After the tar coating, they would wrap the
2 pipes with a layer of material. I was
3 concerned as a firefighter about the risk to
4 our health from the smoke produced by these
5 fires. Smoke is known to contain
6 carcinogens.

7 About a year ago, I chose to have an
8 asbestos screening done on my lungs. The
9 test shows a couple of BB-sized spots on my
10 lungs. Later, the doctors discovered that
11 the cancer had started in my left kidney. I
12 underwent surgery and my kidney was removed.
13 I just learned that my knee that has been
14 giving me trouble actually has the cancer in
15 it.

16 I have never smoked in my life. I
17 have renal cell carcinoma, which is the type
18 of cancer I have is found among coke oven
19 workers. While I have never worked in the
20 coke oven, I have lived within a half mile
21 of it much of my life.

22 Armco used to push the smoke out
23 very heavy every night. I would like to
24 know what was coming out in that smoke.

1 Just like everyone in my neighborhood, my
2 home is showered by the particles in the
3 coke oven and other parts of the steel plant
4 every day.

5 We have the same kinds of problems
6 with property damage as everyone. In
7 addition, my son's dog, who stayed outdoors,
8 died of liver cancer. The vet told my son
9 liver cancer's common among dogs in this
10 area.

11 All my life I've taken care of my
12 health. I'd like to know what caused my
13 cancer. Is it because of where I live,
14 within one half mile of AK Steel? I would
15 like some answers. Sincerely, Clifford
16 Schearer.

17 MR. GONZALEZ: Thank you very much.

18 That was Number 15. We'll have
19 Number 16, then we'll have Number 17 and
20 then over here Number 18, then over here
21 Number 19, and then 20. So if you could get
22 yourself ready, we could start.

23 Sir?

24 RANDY REEDER: Good afternoon. My

1 name's Randy Reeder, and I'm the acting
2 president of the United Steel Workers Local
3 169 in Mansfield, Ohio, representing the
4 locked out workers for -- from AK Steel.

5 You've heard a lot of comments here
6 today throughout the question-and-answer
7 period and also during this comment period
8 about the pollution at AK facilities, and
9 we've done a lot of looking into this due to
10 this labor dispute that we've been in,
11 and -- and we found out some pretty shocking
12 things having to do with our environment.

13 First of all, the reason that the
14 pollution gets so bad at night is because
15 AK Steel, in their greed is -- they shut
16 down the dampers which bypasses the
17 pollution control devices so they can get
18 heat out faster, which means more
19 production. This is a company that has
20 routinely done this. I know; I was the
21 safety chairman prior to the lockout, and I
22 had this situation happen at all times where
23 they would shut the pollution controls off
24 in the spirit of more production, and then

1 the guys in the -- in the plant themselves
2 would have complaints about difficulty
3 breathing, difficulty seeing, because of all
4 the extra dust in the plant.

5 Also, in Middletown, they have -- I
6 just heard the reference to Dick's Creek.
7 This is a place where -- from my
8 understanding, it used to be a very
9 desirable place for recreation, fishing and
10 boating, and what have you. And you can't
11 go fishing there now because there's no fish
12 in it no more. And this is because of the
13 pollution that AK Steel has dumped in there,
14 including the PCBs.

15 We heard earlier about EPA file
16 review in Logan, Ohio, and the three
17 quarters of a million -- over three quarters
18 of a million dollars in fines for the
19 Zanesville plant, and -- because -- and from
20 what I saw when I was there looking through
21 their files over a year ago, every month
22 they report higher than they're allowed on
23 their discharges.

24 And I guess -- I'd just like to know

1 when it is that the State and Federal
2 government is going to finally say, hey,
3 that's enough, and quit letting AK snub
4 their nose at all the -- all the agencies
5 that they do, which includes OSHA and the
6 EPA and -- and everybody. So that's it.

7 MR. GONZALEZ: Thank you, sir.

8 We now have 17 and 18.

9 KATHLEEN BAILEY: My name is
10 Kathleen Bailey, B-A-I-L-E-Y. I'm with Ohio
11 Citizen Action. I'm reading a letter on
12 behalf of Clark Thompson. It's addressed to
13 Mr. Kurt Smith of the Hamilton County
14 Environmental Services, the local branch of
15 the Ohio EPA.

16 Dear Mr. Smith, sincere thanks for
17 your letter of August 22nd, 2001, regarding
18 follow-up on my report of August 5th, 2001.

19 During my conversation, I indicated
20 that there had been heavy particulate
21 fallout on and around my property August 4th
22 and 5th, 2001. In the recent past, samples
23 were taken and analyzed and identified from
24 my property. These were found to be soot,

 Professional Reporters, Inc.
 (614) 460-5000 or (800) 229-0675

1 iron oxide, and various other metal and
2 byproduct deposits.

3 The inspecting EPA went so far as to
4 perform a magnet test on these materials.
5 The results were conclusive. Also, the
6 videotape shows the sample product was
7 unmistakably ferrous metal and material.

8 Now, it is logical to assume that
9 this fallout was from AK Steel and not from
10 any other outside source. The inspector
11 concurred as was the case so many times over
12 the years, past inspectors have agreed that
13 the fallout was indeed from AK Steel.

14 As mentioned in your letter on
15 August 22nd, 2001, the HCDS requested
16 information regarding possible violations or
17 malfunctions during this time frame I
18 reported. You state, according to company
19 representatives, according to AK Steel,
20 everything was in order and no problems were
21 apparent at that time.

22 Why, then, and where does this
23 excessive contamination come from? Is it
24 now normal to have this massive degree of

1 fallout present? Have safe standards been
2 compromised to allow greater pollution? Is
3 it now acceptable for the public to endure
4 eye irritation and sore throats, not to
5 mention lung damage? Perhaps I need
6 re-educated as to what is harmful to the
7 human anatomy.

8 Briefly revisiting the section of
9 your letter, repeating, quote, according to
10 statements, I submit the following: If a
11 child is asked if he broke the neighbor's
12 window, what is a probable response? If a
13 little girl is questioned about a broken
14 figurine is it surprising that she suggests
15 someone else did it? If the criminal is
16 charged with theft, does he admit it? If it
17 walks like a duck and quacks like a duck, it
18 must be a duck.

19 If you do not agree, please do not
20 send me reports of shallow predictable
21 responses from AK's hierarchy as to whether
22 or not they've been misbehaving. Finally,
23 please do not perceive this letter as
24 derogatory. I do appreciate your

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 organization. I applaud your ongoing
2 efforts. And I say, if not for you,
3 people's lives in and around this community
4 would be unbearable, not idle rhetoric.
5 Best regards, Clark L. Thompson.

6 He also submitted a letter in regard
7 to a request by Hamilton County EPA to
8 appear in the court as a witness.

9 Dear sirs, to testify would be a
10 huge inconvenience. This should be
11 addressed by obtaining signed statements
12 from residents --

13 STAFF MEMBER: You can submit them
14 in writing.

15 KATHLEEN BAILEY: Okay. All right.

16 MR. GONZALEZ: Thank you very much.
17 You can submit your comments in writing.
18 The box is right up here. Just feel free to
19 come on up.

20 Now we have Number 18, then 19, then
21 20.

22 MIKE ZIELINSKI: My name is Mike
23 Zielinski, Z-I-E-L-I-N-S-K-I, and this is
24 going to sound familiar because I'm going to

1 continue with the trend we have going here
2 to talk about AK Steel, and my comment is
3 about the fact that the Ohio EPA seems
4 unwilling or unable to take any kind of
5 effective action to rein in one of the worst
6 polluters in the entire midwest, and that's
7 AK Steel. I would say with AK Steel what we
8 have is a serial polluter.

9 We've heard testimony today about
10 groundwater problems in Zanesville that have
11 sat there for years without any kind of
12 effective enforcement action from the EPA.
13 We've heard stories from Mansfield where
14 people have developed rashes because of the
15 air pollution.

16 There's possible cases of cancer
17 that were talked about, and a situation
18 where a woman can't even have her children
19 or grandchildren over to visit her because
20 the air pollution problems are so severe.
21 We've heard about Middletown and all the
22 various diseases that people have developed
23 linked, quite likely, to their exposure to
24 AK Steel's pollution.

1 And then we have the situation with
2 Dick's Creek where AK Steel has -- Dick's
3 Creek flows through and out of the
4 Middletown plant at AK Steel.

5 AK Steel has dumped PCBs into that
6 plant, a potentially cancer-causing
7 substance, and the discharge has got to be
8 so bad that at one point they killed 13,000
9 fish in a single discharge.

10 And yet that same Dick's Creek,
11 AK Steel bought and paid for an
12 environmental study, and you'll be shocked
13 to learn that AK Steel's environmental
14 engineer's came out with a report that said
15 there was no serious health problem at
16 Dick's Creek. Well, there's still signs up
17 there at Dick's Creek that says, "unsafe for
18 fishing and swimming," and the last time I
19 checked, those signs were still there.

20 And I want to call on the EPA to
21 make sure that those signs stay there until
22 AK does the right thing by that community
23 and cleans up that water and makes sure that
24 it is safe for fishing and swimming.

1 But what we have here is a record
2 where fines go uncollected, where
3 enforcement doesn't take place, where AK is
4 allowed to monitor itself and its own
5 pollution levels, where permits are
6 routinely extended.

7 And it wasn't until the Federal EPA
8 took action and sued AK Steel over the
9 Middletown pollution that the Ohio EPA
10 finally took some action and stepped up to
11 the plate there.

12 And we've heard a lot today about
13 we'll get back with you, we'll look into
14 that, we'll let you know what happens with
15 that down the line. We're well past --
16 we're well past the time for words. The
17 time now is for action, to make sure that
18 the Federal EPA and the Ohio EPA do the
19 right thing and stop outlaw corporations
20 like AK Steel from continuing to pollute our
21 environment and risk our lives. Something's
22 got to be done to reign these people in and
23 make sure they clean up their act.

24 MR. GONZALEZ: Thank you, sir.

1 Thank you.

2 Number 19, then Number 20, then 21
3 and then 22.

4 VANESSA STEWART: I'm Vanessa
5 Stewart on behalf of Ohio Citizen Action.

6 Robert Paulson, you might remember a
7 letter read at the fifth comment from a
8 Datha Brashear. She was the woman with all
9 the tumors. Well, I have a letter on behalf
10 of her son, also addressed to you.

11 It says, I'm unable to attend
12 tomorrow's meeting in Columbus. I have
13 lived in Oneida for most of my life. I've
14 been helping my mother, Dath Brashear, to
15 keep her house, porch, and windows clean.
16 She could not keep up with the cleaning from
17 all the filth from AK Steel's pollution
18 because of her bad health.

19 And when I mow the lawn, my eyes
20 water. I can hardly talk from difficulty
21 breathing. I get soot and metallic flakes
22 all over me. I get bad bronchitis and have
23 to take medications. Recently I was almost
24 hospitalized with bronchial pneumonia.

1 In 1997, my arm was badly injured in
2 a machinery accident at a paper mill where I
3 worked. I had a lot of surgeries to repair
4 the damage, but unfortunately, my arm was
5 not healing properly. I went to Florida in
6 late winter of '98, and my arm healed while
7 I was there. I'm convinced it was because I
8 got away from the air pollution in my home
9 town. I'm very angry at what we have been
10 living with here. It has just about ruined
11 my life.

12 When will the EPA force AK Steel to
13 clean up the mess they put into our
14 neighborhood? Sincerely, Bart Brashear.

15 MR. GONZALEZ: Thank you very much.

16 Number 20?

17 MARY GIBSON: My name is Mary
18 Gibson. I live at 9660 Ravenna Avenue,
19 Louisville, Ohio, and have lived at this
20 address for the last 26 years.

21 Prior to moving to Ohio, I had been
22 a licensed real estate broker in Wisconsin,
23 familiar with the Clean Water Act and what
24 it was written to protect.

1 When we purchased our home with
2 eight and a half acres of land to
3 accommodate our daughter's horses, it was
4 across from a parcel of land, wooded,
5 containing a wetland. Since 1989, when the
6 owners of Park Farms built their 60 poultry
7 buildings in a mile and a half, I have
8 tracked every violation that has occurred
9 under the Clean Water Act, to no avail.

10 Our side of the street is zoned
11 residential. A copy of my neighbor's
12 appraisal, which is attached, shows this
13 fact. I have, for ten years, written to
14 everyone in office that is supposed to
15 represent the citizens of our country, and
16 sadly have come to realize those mandated to
17 protect us in our lives, health, and welfare
18 hear only from the lobbyists for the
19 industries.

20 I'm here today to give it a final
21 shot in the hopes that someone in charge
22 will hear the cries of the injured people
23 and pay no heed to the lobbyists. I would
24 hope that in the tragedy of September 11th,

1 you would finally realize that it is people
2 that's important, not money, not power, and
3 certainly not the livestock industry.

4 Having filed verified complaints
5 against the North Preston site of Park Farms
6 for the same violations year after year,
7 with some of the most outlandish answers
8 coming from the OEPA -- i.e., Park does not
9 own the property which I had noticed in my
10 complaint, it is owned by A & J Farms, is
11 humorous to me now, as no matter how many
12 times the OEPA is shown the certificate of
13 partnership, and as the Ohio Secretary of
14 State notified me, it is a fictitious
15 corporation, the OEPA uses it as a tool to
16 dismiss a complaint. Add to this the letter
17 of dismissal sent to me and returned to
18 Columbus, and then sent again to my post
19 office box, which the agency has had on file
20 for seven years, insuring there would be no
21 time for an appeal, and you see how the OEPA
22 and the politics of Ohio fails to serve
23 those that it should serve.

24 From the township trustees to the

 Professional Reporters, Inc.
 (614) 460-5000 or (800) 229-0675

1 governor, it is quite evident that this
2 state needs help in restoring concern for
3 Ohio's government to the people.

4 When questioning the OEPA how A & J
5 Farms, Mr. Pastore, Park Farms, General
6 Poultry, whatever happens to be the name of
7 the day, could take down the trees on the
8 banks of the middlebranch of Nimishillen
9 Creek, bring in backhoes, dig up the stumps
10 and then redo the banks, I was told by Stark
11 County soil and water conservation, he could
12 as he is agriculture.

13 Mr. Pastore had shown them that in a
14 book of regulations, none that I had ever
15 seen. Add to that the information that this
16 was not the middlebranch of Nimishillen
17 Creek, it was Ditch Creek, a manmade creek
18 right across from the poultry palace
19 Mr. Pastore built for himself -- I will hand
20 it in.

21 MR. GONZALEZ: Thank you very much.
22 Ma'am.

23 Number 21, Number 22, 23 then 24.

24 RON DUNCAN: Ron Duncan. I'm part

1 of the Toxic Awareness Group from
2 Middlefield, Ohio.

3 Ohio EPA, inept at best. Our close
4 to eight-year experience with the Ohio EPA
5 has been disappointing, to say the least.
6 We thought the Ohio Environmental Protection
7 Agency would be there for us when we needed
8 them. To discover throughout the years this
9 dysfunctional bureaucratic agency was a
10 Fortune 500 company's best ally was quite
11 shocking.

12 In January of 1994, we had our first
13 official meeting with the Ohio EPA at the
14 governor's office in Cleveland, Ohio. There
15 we voiced our concerns on rumored pollution
16 in a creek near my childhood home which
17 allegedly killed farm animals. This
18 occurred shortly after Carlisle bought out
19 Geauga Industries in April of 1958.

20 We also presented many questions
21 which fell upon deaf ears and still remain
22 unanswered to this day. Inept is the best
23 word which comes to mind referencing the
24 Ohio EPA demonstrated behavior.

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 Shortly thereafter, February, 1994,
2 we wrote Vice-President Al Gore asking for
3 his assistance in this environmental matter,
4 which specifically stated the lack response
5 from the Ohio EPA. This letter had
6 excellent results. We received a call from
7 Valdas Adamkus, the U.S. EPA Region 5
8 director, asking how he may help. We asked
9 him for soil and water testing in our home
10 town of Middlefield, Ohio, to help establish
11 if a pollution problem ever existed or
12 existed today. The testing results
13 indicated highly contaminated groundwater
14 under the Carlisle property.

15 On completion of the integrated
16 assessment in 1995, the U.S. EPA left the
17 cleanup process for the Ohio EPA to bring to
18 fruition. This was a major mistake. To
19 date, we have no specific source identified
20 by the Ohio EPA. We have no remediation of
21 the contaminated groundwater, either. How
22 can you remediate a cleanup of an a
23 unidentified source? The Ohio EPA has
24 failed big time on this issue.

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 We are also not aware of any
2 enforcement actions to date brought against
3 the company by the Ohio EPA either. Yet we
4 continue to have ongoing VOC contaminations
5 migrating off site from Carlisle property.

6 Again, the Ohio EPA as public
7 servants have failed the citizens of
8 Middlefield.

9 The unfortunate aspect of this
10 scenario is that if the Ohio EPA would have
11 implemented appropriate well testing with
12 their initial involvement, the citizens'
13 health and safety may have not been placed
14 at risk by the Ohio EPA.

15 Continued actions and pressure
16 against the Ohio EPA helped discover
17 contaminated water wells in early 2000 that
18 were deemed safe by the Ohio EPA previously.

19 We hold the Ohio EPA accountable for
20 any and all possible future health
21 conditions that may result from exposure
22 from the everyday use of this contaminated
23 water by the impacted families.

24 The Ohio EPA has demonstrated time

1 and time again their ineptness regarding
2 this issue. What will it take for the U.S.
3 EPA to realize the inability of the Ohio EPA
4 to address this issue in the state? The
5 time is now to make the Ohio EPA
6 accountable. Thank you.

7 MR. GONZALEZ: Thank you. Don't
8 forget to turn that in. Number 22?

9 LAURA DUNCAN: Ohio EPA,
10 unacceptable behavior placing the populace
11 of Middlefield, Ohio, at risk.

12 If we understand correctly, OEPA
13 stands for the Ohio Environmental Protection
14 Agency. We are not aware of how the Ohio
15 EPA has protected the health and safety of
16 Middlefield citizens since their involvement
17 in 1994.

18 We have attended many public
19 meetings with the Ohio EPA over the last
20 seven years where they have provided
21 erroneous information to placate the
22 involved companies and the general public.
23 We have numerous documentations to
24 substantiate this.

1 This negative tactic has provided
2 the Ohio EPA with their desired result,
3 which is to minimize the severity of the
4 groundwater contamination and to divide the
5 truth seekers. If the Ohio EPA would place
6 their efforts into resolving the
7 contamination problems instead of these
8 negative tactics over the past seven years,
9 Middlefield's groundwater contamination
10 sites, Carlisle and Johnson Rubber, may have
11 been remediated by now.

12 Additional negative behaviors
13 demonstrated by the Ohio EPA are the
14 following: On July 9th, 2001, we were hung
15 up on by a public servant from the Ohio EPA
16 public interest center, who was rude and
17 unprofessional. This unacceptable demeanor
18 was brought to the attention of the Ohio EPA
19 director, to no avail, yet this employee
20 asked us why we were trying to get him
21 fired. A red flag to any functional agency.

22 The repository at our local library
23 was set up by the U.S. EPA with Congressman
24 Sherrod Brown's assistance by the Ohio -- as

1 the Ohio EPA refused in 1994, and still
2 refused to this day, to place documents for
3 public review.

4 Referencing the past J.V. Peters
5 Superfund site in Middlefield in the 1980s,
6 we are not aware of any Ohio EPA repository
7 that was ever set up. This makes it
8 extremely difficult for the Amish populace
9 in our community to view current
10 environmental documentation.

11 The Ohio EPA Twinsburg office is
12 approximately 30 miles from Middlefield, and
13 Amish beliefs prohibit them from owning and
14 operating an automobile. Any environmental
15 justice issues in Middlefield?

16 The Ohio EPA has consistently
17 attempted to limit our networking with their
18 staff throughout the years. This, too, is
19 unacceptable for a public servant agency.

20 In completing approximately 25 file
21 reviews over the last several years, the two
22 to three week time factor to schedule a
23 review was also unacceptable. Other
24 citizens were able to be scheduled in the

1 following day.

2 It also took the Ohio EPA
3 approximately ten weeks to include a
4 videotape we presented for future use in
5 Carlisle file reviews. This video titled,
6 "Environmental Crisis in Middlefield," was
7 aired on Channel 3 TV from Cleveland on July
8 5th, 2001, and featured an interview with an
9 Ohio EPA staff member, which is quite
10 revealing of the truth.

11 Behavior defines reality, and the
12 behavior demonstrated by the Ohio EPA staff
13 members since 1994 has been unacceptable and
14 self-serving. This unacceptable behavior
15 needs remediation now, and the Ohio EPA
16 needs to be accountable for placing the
17 public at risk, referencing our
18 contamination concerns in Middlefield, Ohio,
19 over the last seven years.

20 Laura and Ron Duncan. Thank you.
21 We are part of the awareness group in our
22 community. Thank you very much.

23 MR. GONZALEZ: Thank you very much.

24 Folks, before we do our next

1 numbers, we have 23 and 24, 25 and 26, 27
2 and 28. It is approximately ten minutes to
3 4:00. As you probably all know, we are
4 having a session this afternoon from 6:30 --
5 this evening, rather, from 6:30 to 9:30.

6 We are, however, willing to go until
7 5:00 today in order to take as many comments
8 as we can within that time frame. Again, we
9 would like to encourage you to please use
10 the other court reporter in the Palermo
11 room. So, with that, sir, you're up.

12 ALEX DUNCAN: My name is Alex
13 Duncan, A-L-E-X, D-U-N-C-A-N. I live at
14 15988 Johnson Street in Middlefield, Ohio.
15 I am 14 years old and in the 8th grade at
16 Cardinal Middle School. My parents, Ron and
17 Laura Duncan, have worked for many years
18 trying to get the Ohio EPA to clean up toxic
19 groundwater in our town.

20 Why won't the Ohio EPA find the
21 source of contamination that is polluting
22 the water wells in Middlefield? Why won't
23 the Ohio EPA force the companies in our
24 town, Carlisle and Johnson Rubber, to clean

1 up their polluted groundwater? Why hasn't
2 the Ohio EPA filed an enforcement action
3 against these companies? Why hasn't the
4 Ohio EPA protected the health and safety of
5 their children and adults in Middlefield
6 Ohio?

7 The answer is clear, the Ohio EPA
8 has not done their job.

9 MR. GONZALEZ: Thank you.

10 MR. FREY: Let's see, we're at
11 Number 23, 24 -- 24.

12 MARJORIE EVERT: My name is Marjorie
13 Evert. M-A-R-J-O-R-I-E, E-V-E-R-T. I'm
14 current chair of the Citizens Concerned
15 about Hilton-Davis.

16 For over 15 years, our Cincinnati
17 unit has been locked in a struggle not only
18 with the chemical manufacturing plant
19 Hilton-Davis, but also with the Ohio EPA.
20 The company was unresponsive to the
21 citizens' concerns about seven acres of open
22 toxic lagoons. The EPA was also
23 unresponsive. The company insisted nothing
24 was wrong. The EPA was finally willing to

1 settle for capping over the lagoons.

2 The community, out of necessity, had
3 to go to the courts to get redress for our
4 problems. We achieved a consent decree with
5 the help of the Ohio Attorney General, and
6 under that consent decree, we have been
7 involved, by requirement of the decree, as
8 citizens in the remediation, which was
9 supposed to be overseen by the Ohio EPA.

10 There followed a somewhat brief
11 period of satisfactory collegial
12 relationship among the parties representing
13 the citizens, the principal responsible
14 party, and the Ohio EPA.

15 As an indication of how nothing
16 nothing is, the lagoons were cleaned up, and
17 in addition to the 89,000 tons of sludge and
18 clay removed, treated and disposed, 394,000
19 gallons of recovered toxic organic compounds
20 have been disposed of off-site, and
21 approximately 40 million gallons of water
22 have been treated before being discharged to
23 the sewer system.

24 And not coincidentally, prior to

1 this arrangement, the sewer system around
2 the site had collapsed or was eroded in
3 several places. Unfortunately, it remains
4 the lengthy task of groundwater and soil
5 cleanup. In other words, this site falls
6 into all three categories that the OEPA is
7 supposed to monitor.

8 The responsiveness of the OEPA has
9 greatly deteriorated since January of 1999.
10 Much valuable time has been lost. A report
11 that was required under the concept decree
12 was submitted by the principal party in late
13 December of '99. It took over 28 months for
14 the OEPA to make the final response to that,
15 in spite of the fact that the citizens
16 responded within five months.

17 Another document that was submitted
18 in July of this year we still have not
19 received a response to, despite the fact
20 that the date has been a moving target, with
21 the OEPA setting several dates and missing
22 their own deadlines.

23 Our concern is also that the consent
24 decree is not being administered by the

1 OEPA. Off-site testing has not been
2 required by OEPA, though it is part of the
3 decree.

4 I'm finding -- although I realize
5 I'm over my time, I feel constrained to tell
6 you that we believe firmly that citizens are
7 the best allies and monitors for the OEPA,
8 but we should not have to be the
9 investigating agency, nor the regulatory
10 agency.

11 We have spent over a hundred
12 thousand dollars in community funds.
13 Citizens have volunteered over 12,000 hours
14 in reviews. We have over \$200,000 in pro
15 bono services that have been given to us.
16 And, in fact, from the principal responsible
17 party, we have almost \$300,000 in grants.

18 No community should be asked to pay
19 their resources in this fashion when the
20 OEPA is supposed to be doing this job for
21 us.

22 MR. FREY: Thank you very much. I
23 also recall this speaker's excellent
24 presentation on a show called, "Make Peace

1 with Nature," a public television show.

2 Thank you.

3 MR. GONZALEZ: And so we'll pick it
4 up with 25 and 26, 27 and 28. Thanks, Bert.

5 POLLY LABODA: Can you hear me okay
6 on this?

7 AUDIENCE MEMBER: Yes.

8 POLLY LABODA: This thing is -- back
9 there we're missing everything.

10 My name is Polly Laboda. I'm
11 founder and CEO of Lorain County Neighbors
12 Protecting our Environment, and I would like
13 to say hello to Paul Reusch, whom I've
14 talked to a thousand times and never met.
15 Hello, Paul. Glad to see you today.

16 MR. GONZALEZ: Could you put that
17 mike a little closer to your mouth.

18 POLLY LABODA: Ohio Department of
19 Development, through the mayor, granted an
20 \$8.5 million loan to build the Nylonge
21 Corporation in Elyria, Ohio, and the
22 Department of Development holds title to
23 this property today.

24 Nylonge Corporation applied for a

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 permit to install in 1989 and received this
2 PTI on January the 31st, 1990. The company
3 began operations in the fall of 1991, with
4 the emission limits of 3333.70 tons of
5 carbon disulfide per year. Ohio EPA -- I'm
6 sorry. Hang on a second now.

7 Ohio EPA issued this permit to
8 install to Nylonge Corporation, knowing that
9 the City of Elyria and the County of Lorain
10 was not attainment for ozone. Ohio EPA
11 illegally issued this permit to Nylonge.
12 Ohio EPA was notified by the U.S. EPA that
13 carbon disulfide is a VOC, still failed to
14 recognize carbon disulfide.

15 OEPA also failed to order Nylonge
16 Corporation to apply for a new PTI limiting
17 carbon disulfide to under 100 tons a year.
18 OEPA allowed it to operate its facility from
19 1991 until 1995 without ever obtaining a
20 permit to operate.

21 OEPA knew that by the fall of 1992,
22 Nylonge should have applied for and received
23 a permit to operate. OEPA did not do its
24 job by saying that Nylonge Corporation did

1 do its job by applying for a PTO. OEPA did
2 not do its job by seeing that Nylonge
3 Corporation did apply for a PTO. OEPA
4 failed by not informing the company they
5 were beyond the 12-month time limit for
6 receiving a PTO. OEPA allowed Nylonge
7 Corporation to repeat this same violation
8 year after year, '92, '93, '94, and '95.

9 In '95, OEPA granted Nylonge a PTI
10 for their second sponge line, even though
11 OEPA failed to require the company to get a
12 valid PTO for the first sponge line.

13 OEPA granted the corporation their
14 new PTI without going through the New Source
15 Review, while our city was still an
16 unattainment. This was a clear violation of
17 the Clean Air Act.

18 Due to the frustration of the
19 citizens dealing with the OEPA, we realized
20 that OEPA was in violation of their own
21 state implementation plans. At this time,
22 we had to turn to the U.S. EPA, who came
23 into Elyria and did an investigation on June
24 10th, 1998. U.S. EPA issued a citation for

1 breaking the Clean Air Act, and part of
2 these provisions for OEPA.

3 Citizens found that Nylonge was in
4 violation of permits because of the toxic
5 release data posted on the right to know.

6 OEPA did not file any notices of
7 violations until the citizens of Elyria
8 brought this information to their attention.

9 So we have a company operating since
10 1991 that is still not able to come into
11 compliance, and OEPA has allowed them to
12 operate without a permit or a Title V.

13 MR. GONZALEZ: All right. Thank you
14 very much.

15 If I could ask -- once you see that
16 flashcard go up, could you please kind of
17 keep it within the time frame. Because even
18 though we're going to go for another hour,
19 if all the numbers that we have really do
20 want to speak, we're not going to get a
21 chance to do that.

22 And if you do have your written
23 comments, please, please put them in a box,
24 okay, so we can make reference to them.

1 Just make sure we get everyone's comments,
2 all right?

3 Sir, you're up.

4 BOB HYLAND: Bob Hyland,
5 H-Y-L-A-N-D, and I present this testimony on
6 behalf of residents in Middletown, Ohio.

7 I support strong environmental
8 enforcement. I cannot attend the public
9 meeting because it is scheduled out of town
10 on a work day. Ohio EPA has allowed
11 AK Steel to pollute our water and air and
12 has not taken action to stop this pollution,
13 despite years of complaints from our
14 neighborhood.

15 Ohio EPA received at least 78
16 complaints from Middletown residents about
17 soot and odors from AK Steel from October,
18 1990 to June, 1997. From June, 1997, to
19 February, 2000, Ohio EPA received an
20 additional 89 complaints. Despite the
21 overwhelming evidence of pollution, for more
22 than a decade, Ohio EPA failed to require
23 AK Steel to correct the problem.

24 Soot and particles stain my home, my

1 car, and my neighbor's. Children cannot
2 play or wade in swimming pools without
3 getting black dust on them. We are forced
4 to go indoors, even during nice weather,
5 because of the pollution.

6 AK Steel has illegally discharged
7 pollution to our streams at least 204 times
8 during the past 11 years, and Ohio EPA did
9 nothing until U.S. EPA filed suit.

10 AK Steel has spilled pollution into
11 Dick's Creek and the Great Miami River
12 numerous times, and at least twice has
13 caused fish kills. Children in our
14 neighborhood used to play in the streams,
15 and now the streams are not safe to swim in
16 or to fish.

17 The U.S. EPA report does not
18 adequately address the failure of Ohio EPA
19 to correct the problems our community is
20 suffering from. I would like to have had
21 the opportunity to address the U.S. EPA in
22 person about these problems. Thank you.

23 MR. GONZALEZ: Thank you very much.

24 Number 28 --

1 STAFF MEMBER: 27.

2 MR. GONZALEZ: I'm sorry.

3 RACHAEL BELZ: My name is Rachel
4 Belz, from Cincinnati, Ohio. It's
5 R-A-C-H-A-E-L, B-E-L-Z. I'm also here on
6 behalf of the Middletown Oneida neighborhood
7 residents. I work with Ohio Citizen Action
8 in Cincinnati, Ohio, and I've been working
9 with a number of other folks in
10 organizations around Cincinnati, Dayton and
11 Middletown with the Oneida neighbors. I've
12 personally been in their homes, I've walked
13 the neighborhoods, I've sat and had picnics
14 with the neighbors.

15 I wanted to bring a present --
16 couple of presents to you. My testimony
17 will be to tell you what these are.

18 This is a swipe sample taken inside
19 a neighbor's glassed-in porch. It was taken
20 Monday, August 27th. Nancy Cottle is the
21 woman who made the testimony earlier.
22 That's her home. This is particle sample
23 from an Oneida neighbor's gutters. The
24 sample includes soot, particles, and silver

1 flakes, which are known as kish. This is
2 only a very small portion of the overall
3 amount.

4 This is particle samples taken from
5 another Oneida neighbor's gutter. It looks
6 different, it feels different. It contains
7 different particles and soot from AK Steel.
8 Neighbors tell us if they don't thoroughly
9 clean out the gutters at least once a year,
10 the gutters fall off their homes.

11 And last, but not least, a photo of
12 one of the typical residents in the Oneida
13 neighborhood. It's a very working income
14 neighborhood. The homes are small.
15 Luckily, people say, they're small because
16 they don't want to clean them as much as
17 they need to be. People power-wash their
18 homes and the vinyl siding, but they still
19 don't come clean. They encourage people to
20 just not breathe the air.

21 I've worked with a number of
22 neighbors in communities all over southwest
23 Ohio, and I've never seen this type of
24 pollution in the neighborhoods that I've

1 worked in so tangible and so obviously
2 wrong.

3 The neighbors in the Middletown
4 Oneida neighborhood, and neighbors all over
5 Middletown, have called in many, many
6 complaints, both to the company itself
7 and -- and representatives at AK Steel
8 Middletown, as well as the local arm of the
9 Ohio EPA, the Department of Environmental
10 Services in Cincinnati.

11 I know that references were made
12 just -- a time ago to those complaints. I
13 learned about these neighbors by reading
14 those complaints and reading the 12 boxes of
15 files on the AK Steel Middletown plant. I
16 wasn't able to read the four boxes of
17 confidential files. We need more help with
18 this neighborhood and these kinds of
19 facilities. Thank you.

20 MR. GONZALEZ: Would you like me to
21 take those?

22 RACHAEL BELZ: Yeah. I was going to
23 put them in the box.

24 MR. GONZALEZ: 28, 29 and 30?

1 Thank you.

2 JANE FORREST REDFERN: I'm -- good
3 afternoon. I'm Jane Forrest Redfern,
4 environmental projects director for Ohio
5 Citizen Action.

6 I'm here today to reflect on your
7 review of the RCRA part of the petition, and
8 I must say I'm quite disappointed. Although
9 you sat down with the EPA and reviewed both
10 inspections and records regarding specific
11 sites, you didn't see the forest for the
12 trees, as they say.

13 I believe that you missed the main
14 concern that we raised, and that is Ohio EPA
15 is working to find ways not to enforce the
16 law; RCRA, hazardous waste, water clean-up
17 laws. You, in reference to the RCRA and the
18 sites going into VAP, you've requested that
19 the Attorney General look into this issue
20 while Ohio EPA stated in their response that
21 U.S. EPA's just simply judging this area too
22 narrowly, and they believe some RCRA sites
23 can go through VAP. Isn't Ohio EPA supposed
24 to be implementing RCRA laws and isn't this

1 an indication that RCRA laws are being
2 violated and they're not enforcing RCRA
3 laws?

4 Ohio EPA needs to work on a separate
5 MOA for RCRA programs, or work with U.S.
6 EPA, but simply to just ignore that they
7 have a federal RCRA cleanup program to go
8 through is not enforcing the laws.

9 In your draft report, you cited that
10 you reviewed and found sites that VAP--
11 that sites went through the VAP and received
12 a covenant not to sue. Well, you missed the
13 boat, too, here. The point is that sites
14 all over the state are saying they're going
15 into the Voluntary Action Program so they'll
16 avoid enforcement by Ohio EPA and not have
17 to clean up under RCRA in some cases, like
18 Vernay and Yellow Springs.

19 Ohio EPA knew -- they went all the
20 way to Yellow Springs, Ohio, to get -- to
21 inform the community about the VAP program,
22 while knowing that the Vernay site was a
23 RCRA site. So EPA knows these sites are
24 RCRA, and they're completely ignoring that

1 these sites have to go through RCRA cleanup.

2 Ohio EPA has also invited companies
3 to go into VAP. They've invited folks that
4 are -- are sites that are -- are RCRA sites,
5 and they've also gone into and invited known
6 violators -- Georgia Pacific, Columbus Steel
7 Drum, all of these sites are known
8 environmental violators, but EPA just knocks
9 on their door and says, come on into this
10 voluntary program.

11 In my work over the last three years
12 on groundwater protection and getting sites
13 cleaned up to protect groundwater, I've
14 recognized a trend. When Ohio EPA does get
15 enough pressure from the community to
16 actually do something, what they've done in
17 a number of sites that I've looked at is
18 that they simply require the company to
19 clean up the contamination on the property
20 of the facility.

21 Meanwhile, Enon, Yellow Springs,
22 Urbana, and Middletown have known polluters
23 that got off the hook of having to clean up
24 the public drinking water, but cleaned up

1 their own sites. This is a robbery of
2 public resources.

3 The result is small towns do not
4 have the ability to go after these companies
5 because they're going through VAP programs,
6 or they're just totally ignoring the orders
7 by EPA, and it's making it virtually
8 impossible to get damages from these
9 companies.

10 So would you like to go and raise
11 your kids in these small towns and drink a
12 little bit of PCE, a little bit of TCE, and
13 nitrates on the side? Thank you.

14 MR. GONZALEZ: Thank you, Jane.
15 Nice seeing you again.

16 29, 30, 31, then 32.

17 KENNETH CONLEY: My name is Kenneth
18 Conley. I'm representing myself, and the
19 property that I bought was contaminated, as
20 I stated earlier. They've been working on a
21 site assessment for over ten years now;
22 still has not been completed. The reason I
23 feel that it has not been completed is
24 because they allow the oil companies to

1 investigate themselves. They allow the oil
2 companies to hire their own contractors to
3 take soil and water samples and hire their
4 own labs to analyze these samples, with the
5 permission of the State and Federal.

6 I worked on this, as I said, for
7 years. I spent thousands of dollars out of
8 my own pocket trying to get this site
9 cleaned up to where it's at a sellable,
10 marketable value rate. I can't do that.
11 The State won't allow me to do that. The
12 State continues to fight me, continuously,
13 on this thing and refuses to enforce the
14 regulations.

15 The environmental laws and
16 regulations are only there for the
17 polluters. The oil companies can do what
18 they want to do. They don't have to answer
19 to anybody. No matter what the evidence
20 points out, the oil company's still allowed
21 to do whatever they want to do.

22 They sent their samples in and
23 they'll come back and say, well, it's not
24 that bad. I was forced to hire a

1 consultants back in 1992. Every site
2 assessment that has been performed since
3 then, and there's been a number of them,
4 there's been deficiencies in that work. My
5 consultants found this out, not the State of
6 Ohio, not the EPA, Region 5, not the oil
7 company, but my consultants. My consultants
8 have never been wrong on six different
9 occasions that they did work on that site.

10 My site is a service station, not
11 large by any means. They put over 40
12 borings and monitoring wells in that
13 property, virtually destroying the property.
14 They continue to harass and intimidate me,
15 threaten me. Those threats include
16 Region 5's UST section. I don't appreciate
17 that. I don't appreciate spending my money,
18 my tax dollars going for agencies that don't
19 know what to do.

20 Bottom line, as our EPA director
21 Christopher Jones would say, bottom line is
22 we're doing a good job. Doing a good job
23 protecting the polluters. I think the EPA,
24 State and Federal should change their name

1 from EPA to EPPA, Environmental Polluters
2 Protection Agency. Thank you.

3 MR. GONZALEZ: Thank you, sir.

4 Number 30, 31, 32, 33, 34, 35 --
5 okay. Who stole all those numbers?

6 STAFF MEMBER: We have 35 here.

7 MR. GONZALEZ: Okay. 35, all right.

8 ROBERT BEAR: My name is Robert
9 Bear, B-E-A-R, and I live in Wyandot County,
10 Ohio.

11 I believe that the Ohio
12 Environmental Protection Agency staff is
13 conscientious and has to deal with many
14 facets of operation that can be restricted
15 by economic factors and political influence,
16 especially in the realm of Confined Animal
17 Feeding Operations in Ohio.

18 My wife and I have five years of
19 experience by living approximately 1500 feet
20 from the Marseilles site of the Buckeye Egg
21 Farm. We built our home 33 years ago.

22 Buckeye Egg Farm is a large
23 industrial agriculture facility with 3.3
24 million laying hens plus egg breaking and

1 egg packaging facilities.

2 Since the advent of CAFOs, rural
3 communities have had the taking of their
4 properties by flies, beetles, dust, odors,
5 improper application of manure, egg wash
6 water and manure runoff, damaged roads and
7 lowered property values.

8 Buckeye Egg has pushed the limits
9 with construction of stormwater ponds
10 without permits, incorporated egg breaking
11 machinery without a permit, constructed 16
12 barn pads with 14-barn permit, and brought
13 in layers before approval, among other
14 violations and verified complaints. Be
15 assured that Buckeye Egg is not the only
16 environmental offender in the state.

17 The Ohio legislature, with the
18 blessing of commodity groups and the Farm
19 Bureau, passed Senate Bill 141, removing
20 Concentrated Animal Feeding Facilities, over
21 1000 animal units, and Major Concentrated
22 Animal Feeding Facilities, over 10,000
23 animal units, permitting process from the
24 OEPA and transferring to the Ohio Department

1 of Agriculture, whose main goal is to
2 promote agriculture. A rules making
3 committee is about to complete refining
4 these regulations.

5 Items like a private civil action
6 related to a CAFF shall submit disputes to
7 arbitration with service costs divided among
8 parties. Is this an attempt to eliminate
9 reporting violations by concerned citizens?

10 General permits to cover all similar
11 CAFFs? Not a good idea. Set unacceptable
12 distance setbacks from previous homes. ODA
13 wants to fast track permits, lack of
14 attention to air pollution and odors.

15 The U.S. EPA will need to scrutinize
16 Senate Bill 141 and accompanying
17 regulations. I place the blame for the CAFO
18 situation on the Ohio EPA leadership for not
19 enforcing regulations, and former Governor
20 Voinovich for restricting the OEPA
21 authority. Thank you.

22 MR. GONZALEZ: Thank you, sir.

23 I think we have a 36 then a 37 then
24 a 38 then a 39.

1 PATRICIA MARIDA: Hello.

2 MR. GONZALEZ: Hello.

3 PATRICIA MARIDA: My name is
4 Patricia Marida, M-A-R-I-D-A. I'm the chair
5 of the Central Ohio Sierra Club, and we have
6 about 4000 members, a little more than that
7 in the central Ohio area.

8 In February of 2000, the OEPA
9 granted an urban setting designation for
10 areas in and around the old Ohio
11 Penitentiary site. One of our members
12 worked for over two years to try to obtain
13 information on the contamination of the
14 site. He was hampered by the fact that the
15 City of Columbus had received a Voluntary
16 Action Program designation from the OEPA to
17 demolish the Pen.

18 It is our firm belief that the VAP
19 was illegal, since the site was too
20 contaminated to qualify. OEPA also failed
21 to show that the site complied with VAP law.
22 The site was and is likely to qualify for a
23 Superfund cleanup designation, should proper
24 testing of the site ever be done by the U.S.

1 EPA. The OEPA does not have records of
2 contamination because of the VAP.

3 The Sierra Club believes that
4 unknown quantities of extremely hazardous,
5 and no doubt undocumented, materials have
6 been improperly disposed of. We have good
7 reason to suspect that some of this went
8 into the Columbus drains.

9 Currently, the Ohio Pen site poses a
10 long-term threat to the Scioto River 300
11 feet away, and to any persons using the area
12 for residence or recreation.

13 The Pen site was polluted by dozens
14 of industries for over 130 years, both
15 inside and around the prison. The pollution
16 runs as much as 30 feet deep.

17 I worked with the Riverfront Commons
18 Corporation, or RCC, a city agency, when
19 they were soliciting public opinion for the
20 Columbus riverfront area. Both the RCC and
21 Sasaki Associates, the firm hired by the
22 city to formalize a riverfront plan, told me
23 that the Pen site was not within the purview
24 of the RCC.

1 Months after I received a notice
2 that the RCC was being terminated, the RCC
3 became the party requesting an urban setting
4 designation for the Pen site. The OEPA was
5 informed of this deception perpetrated by
6 the City of Columbus.

7 When Columbus bought the site from
8 Ohio for one dollar, it was known that the
9 area was highly contaminated, hence the low
10 price. If the site had been properly tested
11 and declared a Superfund site, Columbus
12 would be liable for remediation costs.

13 Columbus apparently opted to proceed
14 under VAP to avoid U.S. EPA involvement.
15 Columbus went out of its way to avoid
16 Federal triggers, such as recognition of and
17 testing for high contamination. Citizens
18 were told that they needed to prove that
19 Federal permits were needed. OEPA ignored
20 the evidence for contamination testing.

21 Dodson-Stilson, the firm in charge
22 of supervising the cleanup, made a report
23 showing 12 areas of environmental concern
24 with suggestions as to methods for

1 remediation.

2 I have just one short paragraph.

3 The Scioto River in this area is a
4 State Resource Water, entitled to special
5 protection. OEPA should have required an
6 anti-degradation review before granting an
7 urban setting application. Currently, the
8 Arena District plans call for residential
9 development on the Pen site, which was only
10 remediated for interim commercial use as a
11 parking lot.

12 MR. GONZALEZ: Thank you, ma'am, for
13 your comment.

14 And we'll move on to 37, 38, 39, 40.

15 ARTHUR STRAUSS: My name is Arthur
16 Strauss, A-R-T-H-U-R, S-T-R-A-U-S-S, and I'm
17 a member of the Central Ohio group of the
18 Sierra Club, as well as many other
19 organizations that are fighting for our
20 planet's survival.

21 I guess this is a litany of grief.
22 I've been listening throughout the time that
23 people have been speaking both in the
24 question-and-answer period and in the

1 comment period, and we are in the midst of a
2 terrible grief, a grief of nonperformance of
3 our agencies. Those agencies have been
4 missing their calling for decades.

5 It started with the railroads when
6 the railroads created the first interstate
7 commerce commission to regulate the
8 railroads. The business people knew exactly
9 what they were doing when they created
10 regulatory agencies, because that took the
11 heat off of them and placed it on a
12 government agency. And we've been doing
13 this ever since.

14 We now have the EPA, the U.S. and
15 the Ohio, and you can see what they're doing
16 to us. They are being protective of the
17 industries that are polluting us and
18 changing our lives from longer lives, which
19 the health department is always touting that
20 we're getting longer and longer lived.

21 However, the Earth Island Journal
22 has an article in it, the current issue,
23 "Living Shorter Through Chemistry:
24 Industry's Campaign to Cover up the Hazards

1 of Hairspray, Scotchgard and Teflon."

2 This is typical of what industry
3 places in our environment. And I thought 3M
4 was a good, responsible company. They've
5 done some good things, but I think you can
6 see from this that we have our work cut out
7 for us. Thank you.

8 MR. GONZALEZ: Thank you, sir. I
9 appreciate that very much. Thank you.

10 Next number is 35.

11 STAFF MEMBER: 38.

12 MR. GONZALEZ: Okay, 38.

13 AUDIENCE MEMBER: This is a reading
14 for Margie Lehrter, L-E-H-R-T-E-R. She's
15 out of the Hamilton office of the OEPA. She
16 says that the Ohio EPA was useless in their
17 struggle to combat an odor problem that they
18 noticed from their home. They've been
19 trying to pinpoint the problem for ten
20 years, and they believe they have another
21 neighbor who has also complained of the same
22 company.

23 The only thing the Ohio EPA ever did
24 was once -- I don't know if you've ever

1 called in an odor problem, but they send
2 somebody out about three hours later and
3 smell the air. They don't test or anything.
4 That's what they did for them. The odor is
5 still there after ten years.

6 And her final comment is, quote,
7 what a useless group the Ohio EPA is. We
8 got more done as citizens rather than having
9 them waste our time and theirs. It's
10 another call for improved performance within
11 the Ohio EPA.

12 MR. GONZALEZ: Thank you very much.

13 We have 39 and 40, 41 and 42.

14 KAREN ARNETT: My name's Karen
15 Arnett, A-R-N-E-T-T, and I live in
16 Cincinnati, and I'm with Environmental
17 Community Organization, and I just want to
18 say that over the past several years, the
19 Ohio EPA, through its proxy, Hamilton County
20 Department of Environmental Services, has
21 taken over 100 samples of particulate matter
22 from around the homes of people residing in
23 Middletown next to the AK Steel plant. Over
24 100. Every single time it's analyzed,

1 according to the records and the reports
2 that they send back to these people and put
3 on file, the Department of Environmental
4 Services shows the same thing, that this
5 material contained iron, coke, kish, soot,
6 occasionally fibers from people's laundry.

7 But in one single analysis that we
8 just did recently with the help of somebody
9 in Cincinnati who used equipment at the
10 University of Cincinnati, we thought to look
11 for something that might be meaningful. We
12 asked for an analysis for heavy metals. And
13 that sample showed the following heavy
14 metals: Manganese, zinc, zirconium, and
15 arsenic.

16 And if you look in the New Jersey
17 health facts sheets, all of these are listed
18 as toxic substances, and people in the
19 neighborhood around AK Steel have breathed
20 the air that contains this particulate
21 matter year in and year out, 24 hours a day,
22 their entire lives.

23 So what health effects might be
24 coming from these materials? And yet why

1 have over 100 samples been taken and
2 analyzed by Hamilton County Department of
3 Environmental Services for exactly the same
4 materials over and over again that anybody
5 who works or lives near a coke plant could
6 tell you is coke, kish, and soot? It
7 doesn't tell people anything new. I think
8 it misleads the people -- actually, by now
9 it's sort of a -- a joke, I would think, but
10 it misleads the people who have to rely on
11 the agency and to believe that something is
12 being done for them.

13 I wonder what sort of cynicism must
14 take place on the part of the representative
15 of DES who comes out, dutifully collects a
16 sample, takes it back to analyze it, knowing
17 the same results will come back again and
18 again. What new is being found and why are
19 our tax dollars being wasted on this useless
20 exercise? Thank you.

21 MR. GONZALEZ: Thank you very much.
22 Number 40, 41, 42, and then 43,
23 please.

24 TRISH LANAHAN: My name is Trish

1 Lanahan, L-A-N-A-H-A-N, and I'm reading on
2 behalf of Betty and James Holtkamp,
3 H-O-L-T-K-A-M-P, and Haudi and Edward
4 Gilday, H-A-U-D-I, and Edward, G-I-L-D-A-Y.

5 This letter is actually addressed to
6 you, Robert Paulson. It says, Dear Robert
7 Paulson, the odor from Three Rivers
8 Convalescent Center has been a source of
9 irritation to us since 1976.

10 Whenever we complained to the Health
11 Department, we were referred to the Ohio
12 EPA, who did nothing until recently. Three
13 Rivers Convalescent was permitted to expand
14 at least two times, possibly three times.
15 The residents opposed on all expansion, but
16 to no avail. Because of Ohio EPA's failure
17 to monitor Three Rivers, the Miami Heights
18 residents are being forced to carry the
19 burden of excessive sewage. The Ohio EPA
20 neglected to take responsibility and ensure
21 our health and safety.

22 Sincerely, Betty and James Holtkamp,
23 and Haudi and Edward Gilday.

24 MR. GONZALEZ: Thank you very much.

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675

1 41, 42, 43, and then 44, please.

2 DICK BORTZ: Yes, my name is -- my
3 name is Dick Bortz, B-O-R-T-Z.

4 My concern is the Ohio EPA's
5 indifference to many landfills being located
6 in the same area. Our area of Ohio, Stark
7 County, is overrun with landfills. Within a
8 ten-mile radius of Waynesburg, Ohio, we have
9 two solid waste sites, one proposed new
10 solid waste site, and three construction and
11 demolition landfills. These are American
12 Landfill, Countywide Landfill, proposed
13 Indian Run Landfill, and the construction
14 landfills are the Minerva Enterprises Exit
15 Landfill and Stark Disposal.

16 Even the EPA admits that all
17 landfills, even with liners, will eventually
18 leak. With so many sites in such a
19 concentrated area, certainly contamination
20 will eventually occur. When water
21 contamination is found, how will we
22 residents be able to prove who's to blame?

23 All five of the current sites are
24 accepting asbestos. With so much asbestos

1 coming into such a concentrated area, even
2 local air pollution officials, such as Rick
3 Miller of the City of Canton, have expressed
4 their concern.

5 Methane gas is also a major concern
6 of nearby residents. If the proposed
7 expansion in the new Indian Run site is
8 granted by the Ohio EPA, there could
9 potentially be 2000 trash trucks per day,
10 and this is on a very fragile two-lane road.
11 The impact on our environment and
12 communities could be devastating.

13 While many local residents -- excuse
14 me, while many local organizations have
15 complained about the increased truck traffic
16 to Christopher Jones, his written response
17 is these issues are not regulated through
18 Ohio's solid waste disposal regulations, and
19 therefore cannot be taken into account when
20 a decision is made on the expansion permit
21 application.

22 Ohio EPA's rule is to review the
23 permit application to see if it meets
24 technical requirements for design,

1 construction and closure. Yet, Christopher
2 Jones is the only person who can grant or
3 deny landfill permits. To do so without
4 regard to the quality of life of the
5 residents of the surrounding communities
6 cannot -- I'm sorry -- is nothing -- it
7 cannot consider or will not consider social
8 impact on a community, then he is not really
9 protecting the environment of the people.

10 American and Countywide are two of
11 the four largest landfills in the State of
12 Ohio. Stark County takes more trash than
13 any other county in Ohio. Almost twice as
14 much as the next highest community.

15 Thank you very much.

16 MR. GONZALEZ: Thank you, sir, very
17 much.

18 Number 42, then 43, 44, 45 and 46.

19 JILL VANVOORHIS: My name is Jill
20 VanVoorhis, V-A-N-V-O-O-R-H-I-S, and I'm
21 from Citizens Against American Landfill
22 Expansion.

23 MR. GONZALEZ: Could you get closer
24 to the mike, please. Thank you very much.

1 JILL VANVOORHIS: Okay. I'm sorry.

2 I am from Waynesburg, which Mr. Bortz was
3 just referring to, approximately ten miles
4 southeast of Canton, Ohio. I'm not a
5 environmental expert. I'm a stay-at-home
6 mom with four wonderful boys. We live on a
7 farm that has been in my husband's family
8 now for many generations.

9 We heard there would be a landfill
10 owned by Waste Management, which is directly
11 across the road from our farm. So the past
12 two years we have studied and learned that
13 our EPA system that is supposed to protect
14 people in the environment is actually
15 nothing more than glorified secretaries for
16 the landfills.

17 The site is an old site that was
18 started in the mid 1970s from a local man.
19 The area was a large mined area with many
20 oil and gas wells. Also, the EPA started
21 inspecting on this site in the mid 1980s, so
22 for ten years this site had absolutely no
23 inspection.

24 The community has heard many horror

1 stories of what went in there during this
2 period of time and all that is under this
3 cell, which is just dirt. No lining at all.

4 The total size of this site is 872
5 acres. Current waste placement is 234
6 acres, and on the entire site only 40 acres
7 has the best available technology liners.
8 The rest is just clay or dirt. The
9 expansion, 40 years, 150 acres, with a
10 permit they now have, the mountain of
11 garbage they have now is the highest
12 elevation in Stark County at 1380 feet.

13 This expansion will allow it to go to 1470.

14 Being that this is an old site and
15 the EPA does not know exactly what's under
16 this site, for stability, our fear of this
17 elevation is great. With this elevation,
18 the odor problems are enormous. We're
19 getting calls up to five miles away from
20 this site of the strong odors. It's getting
21 so strong at my house, at times we have to
22 go inside because you cannot bear to smell
23 the area air.

24 How many miles will the odor go

1 after the expansion? The expansion will go
2 over many acres of the unlined garbage.

3 Though the State rep's proposing a
4 bill that would not allow this, Waste
5 Management then agreed to put a liner over
6 the old garbage. There were no Ohio EPA
7 regulations for such liners, but because
8 Waste Management has asked, the EPA is now
9 pushing regulations through so Waste
10 Management can continue with this expansion.

11 How can a site be turned down when
12 our Ohio EPA is so willing to write a
13 regulation that's needed to landfills. 100
14 gallon a minute aquifer that was just found
15 in the EPA -- the health department did not
16 know -- I will skip through a lot of this.

17 The monitoring wells -- I will go
18 straight to the methane because that is
19 where we fear our problem is. There are
20 five methane problems on this entire site.
21 They do not have that many because they were
22 considered grandfathered. The only cell on
23 this site is a new 40-acre cell that has a
24 liner. They had to slice this because

1 methane was migrating under this new cell
2 that they were putting in, so this new cell
3 is being sliced to push methane out. It
4 proves it's migrating. We are now finding
5 methane in the ground around this site.
6 Besides, the methane found was at explosive
7 levels, so there is a concern. Through
8 citizens pressure, they will be doing some
9 investigation.

10 MR. GONZALEZ: Thank you. We
11 encourage you to turn your comments in,
12 please.

13 JILL VANVOORHIS: Okay. Just one
14 final thing. You know, in our town -- and I
15 am begging the Federal EPA to check our air.
16 We are being buried with garbage and Ohio
17 does not care. And I think we need to
18 remember that this isn't our land, we are
19 only borrowing it from our kids and all our
20 children, and something needs to be done, or
21 the farm that's been in my husband's family
22 for three generations will be buried in
23 garbage. Thank you.

24 MR. GONZALEZ: Thank you very much.

1 43, 44, 45, 46?

2 Can I get a show of hands how many
3 people are still here who are going to make
4 comments, please. Okay. I think we're
5 doing okay. We've got about 23, 24 minutes,
6 so I think we're doing all right.

7 STAFF MEMBER: We've got 45 here.

8 MR. GONZALEZ: Okay. 45.

9 GEORGIE SCHOTT: My name is Georgie
10 Schott, G-E-O-R-G-I-E, S-C-H-O-T-T. I
11 belong to a citizens group call the
12 Tri-County Protect Our Water Coalition. As
13 our name implies, we're waging a war against
14 potential water contamination in a 15-county
15 area of Ohio.

16 To date, our small group has raised
17 approximately \$18,000 to do battle against a
18 giant of a company with millions of dollars
19 at its disposal. We use our money to hire
20 attorneys, geologists and other experts that
21 we think can aid us in our fight.

22 Meanwhile, Goliath, i.e., Norton
23 Environmental, uses its millions to hire
24 lobbyists and potentially biased testing

1 companies to get the correct answers that
2 their employers are looking for.

3 One of our greatest accomplishments
4 to date is that we received the attention
5 and support of many community and state
6 leaders. Among these are Darrell Pancher,
7 Bill Ress and Jim Seldenright, Tuscarawas
8 County Commissioners; Jane Vignos, Stark
9 County Commissioners; Bethlehem Township
10 Trustee, Richard Regula; Senator DiDonato,
11 30th District; Congressman Ralph Regula;
12 Representative Kerry Metzger, 97th District;
13 and Senator Kevin Coughlin, 27th District,
14 who have both sponsored bills to impose a
15 moratorium on new landfills in the State of
16 Ohio while siting criteria and regulations
17 are reviewed.

18 These are just a few of our
19 government leaders supporting us at this
20 time.

21 The problem we're having is that we
22 cannot get the attention or the support of
23 Governor Taft or Chris Jones. Their only
24 interest seems to lie in helping the big

1 landfill companies meet the numerous
2 deficiencies on permit to install
3 applications.

4 In our particular case, Norton
5 Environmental had in the neighborhood of 250
6 to 400 -- we can't get a straight answer on
7 the exact amount -- deficiencies, and have
8 been given approximately four years to
9 correct them. We, in the meantime, can't
10 get any break from the Ohio EPA.

11 Every attempt at communication from
12 the public, and members of our legislature
13 in some cases, seems to be answered by way
14 of a form letter from Chris Jones' office.
15 This occurs regardless of whether the
16 communication was addressed to Mr. Jones or
17 to Governor Taft.

18 As a citizen of Ohio, I would like
19 to be recognized by my State government and
20 would like to see a major change in the way
21 the Ohio EPA is run. One man, be it Chris
22 Jones or any other appointed government
23 official, should not have the power to
24 affect the lives of so many people without

1 being held accountable. Thank you.

2 MR. GONZALEZ: Thank you very much.

3 46 then 47, 48, 49, 50.

4 FREIDA SCHOTT: My name is Freida
5 Schott, F-R-E-I-D-A, S-C-H-O-T-T. I'm with
6 the Tri-County Protect Our Water Coalition.
7 I just have a couple comments.

8 Going through the draft report from
9 the Federal EPA, one comment the Ohio EPA
10 made was the U.S. EPA's conclusions are
11 based on incomplete information or faulty
12 assumptions. The same can be said for how
13 the Ohio EPA permits landfills. They rely
14 solely on the information that they receive
15 from the landfill operator's consultants and
16 engineers -- who, by the way, are referred
17 to as biostitutes by Robert F. Kennedy,
18 Junior -- on the application, assuming all
19 the submitted information is accurate. It
20 falls on the citizens of the affected
21 communities to prove the information
22 incorrect.

23 On the public participation, all the
24 responses we received from the Ohio EPA are

1 basically a form letter showing the
2 timetable of the permit process. The basic
3 response at all our hearings are if the
4 applicant meets all the technical criteria,
5 there is nothing we can do to stop it. They
6 can not take socioeconomic issues into
7 consideration.

8 The problem with this is those are
9 some of the very issues that are the most
10 detrimental to the health, safety and
11 welfare of the affected communities.

12 There was a contractual agreement
13 back in '92 between the Countywide Landfill
14 in Bolivar and the director of the Ohio EPA,
15 Countywide Landfill's operator, and a few
16 members of the citizens group in opposition
17 to that landfill, Club 3000.

18 In the ten years that have passed --
19 there were 89 stipulations that were signed
20 by all three of these entities. In the
21 years -- the ten years that have passed
22 since the existence of the Countywide
23 Landfill, all 89 stipulations have been
24 broken or modified at the discretion of the

1 Ohio EPA and the Countywide Landfill
2 operator without any notice or input by Club
3 3000.

4 Since three parties signed that
5 contract, we feel that these same three
6 parties should have been notified of changes
7 instead of just the two -- instead of just
8 two of the involved parties.

9 It appears that public participation
10 is more of a scheme to satisfy the
11 requirements of the U.S. EPA and the ORC.

12 Thank you.

13 MR. GONZALEZ: Thank you very much.

14 Could we ask all those who are left
15 who want to make a comment to just step
16 forward, please, and take your place at
17 wherever -- whether you're an odd or an
18 even -- that sounds kind of strange.

19 And I'm assuming these will be the
20 last of the group who will make comments, so
21 we can really begin, Denise, at your
22 microphone.

23 MARCIA WALLGREN: My name is Marcia
24 Wallgren, M-A-R-C-I-A, W-A-L-L-G-R-E-N. I

1 live behind Vernay Labs, a manufacturer of
2 rubber products, in a residential
3 neighborhood across from two schools.
4 Everyone in Yellow Springs, Ohio, lives
5 within two miles of Vernay.

6 OEPA's failure to enforce the laws
7 has seriously affected me, my neighbors, and
8 my village. I am an accidental
9 environmentalist. It was after repeated
10 exposure to their chemical releases that I
11 was forced to spend the last six years of my
12 life trying to protect myself and my town.

13 Over two years I have -- well,
14 actually, over three years, almost three
15 years have been spent in Clean Water Act and
16 RCRA litigation.

17 This site is contaminated with many
18 chemicals, including trichloroethylene,
19 tetrachloroethylene, and vinyl chloride at
20 levels of saturation. Vernay sits in
21 delineated captures of our environmental
22 protection agency. Ohio EPA failed to stop
23 Vernay's hazardous waste violations and
24 failed to protect many of them.

1 Despite OEPA's protection of
2 groundwater, the site was left unremediated.
3 OEPA failed to characterize the source or
4 extent of the contamination. A series of
5 drains and catch basins beneath the plant
6 caused it to spread, unchecked, throughout
7 my neighborhood. OEPA failed to detect
8 contaminated water flowing from Vernay into
9 the cracked village sewers into a creek that
10 fed upon where children fished and ate those
11 fish, into Glenhelen, our nature preserve,
12 then into the Little Miami River, which
13 happens to recharge our village well field.

14 OEPA also allowed Vernay to enter
15 into the VAP. OEPA has allowed carcinogenic
16 fumes from a vulcanizing process to be
17 vented into our yards.

18 The regional EPA agency has asked me
19 if I wanted to harm or shut down this
20 company with my complaints. I have seen
21 permits figured on five day weeks at eight
22 or 16 hours a day at times when the factory
23 was running 24/7. I worry about the health
24 of my neighbors. I worry about my

1 groundwater. I worry about the village well
2 field. We have had our lives disrupted and
3 our property damaged. We should not have
4 had to attempt to do the job that OEPA was
5 supposed to do. We are now prepared to
6 spend hundreds of thousands of dollars to
7 work with the U.S. EPA on cleanup issues.

8 Please see that this never happens
9 to another citizen or town in Ohio again.

10 MR. GONZALEZ: Thank you very much.
11 Ma'am.

12 VIVIAN BAIER: My name is Vivian
13 Baier, B-A-I-E-R, and I'm here to talk about
14 Exit C & D Landfill. It's a construction
15 and demolition landfill in Stark County,
16 which butts up right to the American
17 Landfill site which is owned by Waste
18 Management.

19 The owner of the site is Tim
20 Williams, a convicted felon, who was
21 convicted by the Federal EPA. He has been
22 in full ownership of this landfill for the
23 last ten years. This site has approximately
24 15 acres approved for dumping, but only nine

1 acres are being used.

2 The site, according to the Ohio EPA,
3 has had a leachate problem for many years.
4 The problem with the site is the property
5 has many deep mines towards the back of the
6 site that the Ohio EPA and Stark County
7 Health Department did not know about. There
8 was a lot of water being produced in these
9 deep mines where, in turn, it would flow
10 through the fill in the area, thus creating
11 leachate.

12 Since 1991, the Ohio EPA has allowed
13 Tim Williams to try numerous ways to solve
14 his leachate problems. One way was to allow
15 him to drain two strip mine ponds and let
16 the water run down a township road. What
17 this was accomplishing was flooding up
18 residents' basements and properties, and
19 this was not reported to the Ohio EPA by the
20 residents due to they could not figure out
21 where the water was coming from. It was
22 Scott Wringler that explained what had been
23 done less than a year ago, and this was done
24 over two years ago.

1 After that had failed, the Ohio EPA
2 had Mr. Williams put a leachate pond in and
3 was instructed to have this hauled out and
4 treated. This apparently became too
5 expensive for poor Mr. Tim Williams, so they
6 decided to pump the leachate into the Indian
7 Run Creek, which runs into the Big Sandy
8 Creek in our area. He was doing this on the
9 weekends.

10 And poor Tim Williams was not caught
11 by the Ohio EPA, or the local health
12 department that was inspecting routinely on
13 his site, it was the neighbors, the
14 residents, that found the piping going into
15 the creek, and also was being pumped into a
16 hay field by a local farmer.

17 What happened with the hay field was
18 we had to bring in Fox 8 News, Lori Taylor,
19 from Cleveland, Ohio, because the Ohio EPA
20 said there's no way possible that
21 Mr. Williams would have done such a thing,
22 although the Federal EPA came in and
23 convicted him of this.

24 And what they found was 500 parts

1 per million of ammonia in this field, and
2 they tried to blame it on these deep mines.

3 So while Mr. Williams was spending
4 his Federal prison time, the Ohio EPA
5 director, Christopher Jones, gave him an
6 asbestos permit. And just yesterday we
7 found out he's going to give him a solid
8 waste, and possibly to dump tires into this
9 landfill site. So he was spending time in
10 prison just getting permits left and right
11 from Christopher Jones. I don't understand.

12 I mean, the Federal EPA convicted
13 him and the Ohio EPA is just giving him
14 everything he wants. And the Federal EPA
15 supposedly opened his case back up. It was
16 closed, and we want to know what's going on
17 with this case, because Lori Taylor from Fox
18 8 News went to examine everything and she
19 found out that now it's opened back up
20 again.

21 Thank you.

22 MR. GONZALEZ: Thank you very much.

23 What number are you, sir?

24 JOHN STINCHFIELD: I'm on the odd

1 side, so it worked out right. I'm John
2 Stinchfield, S-T-I-N-C-H-F-I-E-L-D. I'm
3 from Dublin, Ohio. Starting out with a
4 question is the way I'm going to go, and I'm
5 not going to go into a particular
6 environmental problem I've been involved in
7 that's cost me dearly, but I will preface by
8 stating what's wrong with this picture by me
9 being here.

10 I'm a real estate broker. I do
11 development. I'm not the kind of person
12 that normally ends up at the EPA for help.
13 We seem to arm wrestle a lot to get the job
14 done, and I suppose that's fair in the give
15 and take you have, how things go.

16 To our audience, to the Federal EPA
17 that's here, my question would be, do you
18 notice that McDonald's coffee hasn't burned
19 anybody recently? Have you noticed that the
20 Ford Explorer/Firestone tires aren't causing
21 accidents, injuries and deaths anymore, or
22 at least at the rate they were?

23 Today, in this forum, I believe we
24 have all been exposed to many problems,

1 viral in nature, that have not been
2 resolved. In fact, one gentleman, in his
3 follow-up, mentioned an environmental
4 concern that began in the 1960s.

5 These problems that -- these
6 problems today that are in our minds are to
7 be -- our problems are to be resolved by
8 government agencies. It is not my intent to
9 assert that we don't need governmental
10 agencies. The very nature of environmental
11 problems are so complex that the need for
12 taxpayer's supported agencies to investigate
13 and prosecute them will be -- will doubtful
14 never cease.

15 We, the people of Ohio, when we
16 finally lose our apathy and set out to slay
17 polluting dragons and/or bad regulatory
18 agencies, are most often blindsided by the
19 first obstacle that our attorney points out
20 to us in that it's basically easier to get
21 rid of AIDS than it is to sue city hall, or
22 the State of Ohio.

23 This is a sovereign immunity state.
24 Many are. And in different degrees, on a

1 scale of one to ten -- I'm not a legal
2 scholar, but I'd guess this one's a ten.
3 What is the brick wall in Ohio? It's called
4 the sovereign immunity. That's right,
5 incompetent bureaucrats are not able to be
6 held accountable.

7 My lawyer, upon going to him with
8 problems that I had, started first with this
9 story of how his automobile was damaged by a
10 wall owned by the city falling on it only to
11 be told that even though he could sue them
12 for free, it wasn't worth his breath.

13 By the turnout today, the unusual
14 litigation -- the unusual litigation
15 requesting Federal takeover of Ohio -- of
16 the Ohio EPA, it's obvious we've got a
17 problem here. If upon being victimized by
18 government agencies we the people were
19 allowed to sue for compensation, there would
20 be, in my opinion, be far less back sliding
21 and more problem solving, and a hell of a
22 lot less load on the EPA, both State and
23 Federal, from the State of Ohio.

24 Are you, the Federal EPA, aware how

1 many more damaged U.S. citizens living in
2 Ohio there are than those whose numbers you
3 are estimating as a function of who's here
4 today? You know the rules, if 100 crazies
5 show up, there are 10,000 unhappy. Well,
6 we've had a strong turnout, but it's
7 diminished by the fact that there's been
8 gobs and gobs of legal advice given out to
9 people --

10 MR. GONZALEZ: Thanks a lot. We
11 appreciate your comments. Really. Thank
12 you very much.

13 What number is that over there?
14 Thank you.

15 AUDIENCE MEMBER: Number 58 is
16 actually Patricia Brechlin, and she had to
17 leave to get her children from day care, so
18 I'm going to read her comments.

19 My name is Patricia Brechlin,
20 B-R-E-C-H-L-I-N. I'm an environmental
21 professional from Dayton.

22 Events this past summer which
23 affected family members of mine relating to
24 flooding, massive erosion of property and

1 sewer backups into homes in Hamilton County
2 prompted me to investigate the causes. What
3 I found out upon reviewing Ohio EPA files
4 was that the sanitary sewer overflows into
5 the homes and neighborhoods dating at least
6 as far back as 1989 were identified by the
7 Ohio EPA Southwest District Office staff.

8 The causes are apparently due to a
9 lack of capacity at treatment plants
10 operated by the Metropolitan Sewer District
11 of Greater Cincinnati and a sanitary sewer
12 system with excessive infiltration from
13 stormwater.

14 A consent decree was signed in 1992
15 between Metropolitan Sewer District and Ohio
16 EPA. However, an enforcement schedule with
17 stipulated penalties to ensure compliance
18 was not included. The situation has gotten
19 worse since then, and there are now over 100
20 sanitary sewer overflows monitored routinely
21 by the Metropolitan Sewer District.

22 Internal memos written by Ohio EPA
23 staff describe the frustrations of having to
24 work in a situation where -- which they know

1 is illegal. Staff have been forced to
2 accommodate new development by permitting
3 additional sewer extensions in a system
4 which is already grossly inadequate.

5 The cost to insurance companies and
6 individual homeowners from last summer's
7 event is clearly phenomenal. Of greatest
8 concern is the public health issues
9 surrounding untreated sewage running into
10 homes, streets, neighbor creeks, and
11 ultimately public water supplies.

12 The citizens have been kept in the
13 dark about this situation for over a decade,
14 and another consent decree is being
15 negotiated now, which includes U.S. EPA
16 Region 5.

17 My concern is not only with Ohio
18 EPA's lack of enforcement, but also with the
19 amount of time it is taking U.S. EPA to step
20 in. I'm also concerned that the remedies
21 that will be agreed upon may not be in the
22 best interest of the citizens, but more
23 accommodating to businesses and political
24 goals. Treatment plant permits have been

1 re-issued by Ohio EPA without compliance
2 schedules, which is in violation of the
3 Clean Water Act and accompanying
4 regulations.

5 These issues are not exclusive to
6 Hamilton County, and similar problems
7 relating to a lack of enforcement exist in
8 other Ohio EPA programs. Staff have been
9 forced to work with companies which only
10 prolongs and aggravates the problems.
11 Environmental enforcement responsive
12 policies are not being implemented as
13 required, and U.S. EPA is not adequately
14 overseeing inspections and enforcement by
15 the State. Technical guidance is being
16 ignored in many cases.

17 It's time for a change, and for the
18 citizens of Ohio, it is long overdue.

19 Thank you.

20 MR. GONZALEZ: Thank you, ma'am.

21 Who else do we have left here?

22 BOB ACOMB: My name is Bob Acomb,
23 A-C-O-M-B. I'm here on behalf of myself.
24 I'm an accidental environmentalist as well.

1 I live in Yellow Springs, and about three
2 years ago, as a part of the Vernay Labs
3 investigation by the Ohio EPA, they tested a
4 well of my neighbor's across the street. At
5 that point, they discovered elevated levels
6 of several VOCs.

7 They got around to notifying me in
8 August of this year, and they were kind
9 enough to enclose in the package an
10 information sheet from the CDC about the
11 VOCs they found in my drinking water.

12 And one of the things I happened to
13 notice in that was the CDC considers
14 long-term exposure to this particular
15 chemical to be one year or more, and I can't
16 help but note the irony that the Ohio EPA
17 knew about this three years ago, so they've
18 allowed my family and myself to be exposed
19 for triple what they consider to be
20 long-term exposure.

21 And in conversations with EPA
22 officials and follow-up, it's become very
23 clear to me that I can't expect a great deal
24 of assistance in this from the Ohio

1 authorities.

2 I would take this moment to address
3 each of you and point out that earlier in
4 the presentation, it was noted that you
5 usually do a single meeting, and yet you
6 require two to address the issues present
7 here in Ohio. And this meeting was
8 originally scheduled to end at 4:00. I show
9 three minutes to 5:00, and there's another
10 session yet tonight. So clearly there's a
11 problem here.

12 I would also point out that most of
13 the speakers here today are not on the
14 payroll of anybody but themselves, and
15 they're spending their own money to come
16 here to address you about these issues.

17 I think the only people you hear
18 speaking out in favor of the Ohio EPA are
19 political figures who have patronage issues
20 or paid lobbyists, or that sort of person,
21 who is paid to be there. They're not
22 expressing their concerns, they're
23 expressing their payor's concerns. Money is
24 the issue.

1 I urge you to do the right thing.

2 If you're really wanting to get to the
3 bottom of it, come out to my house, I'd be
4 happy to share a drink on the patio and talk
5 about this, but you have to drink the water.

6 And I -- I point out that the
7 neighbor across the street lived there 16
8 years and her husband is in the final stages
9 of cancer. I've lived there ten years. My
10 daughter's 11 years old. Please do the
11 right thing. Stop this now. Take over the
12 Ohio EPA. Make them accountable to all of
13 us. Thank you.

14 MR. GONZALEZ: Thank you, sir.
15 Thank you very much.

16 Who's next up?

17 STAFF MEMBER: Number 60.

18 MR. GONZALEZ: Thank you.

19 MARILYN WALL: Marilyn Wall,
20 W-A-L-L, and I'm a volunteer with Sierra
21 Club.

22 The first -- I'll submit written
23 comments later, but the first point I wanted
24 to make right now was about the criminal

1 enforcement section of the -- of the report.

2 While the petitioners didn't ask for
3 a review of the criminal enforcement
4 section, we -- we particularly noted that
5 U.S. EPA praised Ohio's criminal enforcement
6 record. However, when you read the actual
7 report, you see that what the U.S. EPA is
8 actually saying is there's been a
9 significant decline in the number of
10 prosecutions over the past five years. This
11 in and of itself is a significant issue
12 which has not been dealt with within the
13 report.

14 Secondly, today's hearing, and at
15 numerous other hearings about AK Steel
16 permits, several statements have been made
17 about AK Steel internally shutting down
18 pollution control equipment, particularly at
19 night. If Ohio 's criminal enforcement
20 record is so great, how come they haven't
21 dealt with the AK Steel issue? And what are
22 you going to do about the allegations that
23 have been made of AK Steel turning off
24 pollution equipment that you've heard today?

1 The next issue I want to address is
2 the RCRA review, just in part. One of the
3 most important aspects of that -- of the
4 report deals with the fact that it has taken
5 typically five to ten years between the date
6 that violations or problems at facilities
7 have been noted, but it's taken five or ten
8 years for any actual enforcement, findings
9 or consent orders to be signed, and
10 following consent orders there's still a
11 series of continuing violations.

12 To us, that indicates there's
13 significant problems with the ongoing
14 enforcement at facilities, particularly the
15 ones we ask U.S. EPA to trace, but there's
16 no indications in the report that deal with
17 that aspect of the Ohio EPA's enforcement
18 capability.

19 There are many things in the air
20 section of the report that we do agree with;
21 however, many of them deal with the decline
22 in inspections and the need for more public
23 involvement. There's much more that needs
24 to be said about the thoroughness of the

1 inspections and issues like stack tests,
2 about the compliant procedure, and about the
3 misuse of confidential business information.

4 Many of the inspection reports which
5 we've read at the agency are simply tours of
6 the facility, and the review of the
7 enforcement is limited to paperwork reviews
8 done in offices. But when we interview
9 staff members about permits and processes at
10 facilities and possible causes of citizen
11 complaints, we find that the agency itself
12 has an extreme lack of familiarity with the
13 factories and -- and a lack of technical
14 support detail for the documentation. We
15 also found that there are many, many stack
16 tests which do not pass and which are not
17 retested or required for retest. And in
18 many cases, the major pollutants of concern,
19 such as BSCs, are not tested at all, even at
20 major facilities.

21 Since I'm getting the warning signal
22 here I'll put the rest of my comments in
23 writing. Thank you.

24 MR. GONZALEZ: Thank you very much.

1 And I think we have one more, or two more.
2 How many do we have over here? We have
3 two -- two comments and one comment here.
4 It's a little after 5:00 now.

5 JACK SHANER: Hi. Jack Shaner,
6 S-H-A-N-E-R.

7 MR. GONZALEZ: Jack, could you get
8 closer to that, or maybe raise it. Just
9 take it out and hold it.

10 JACK SHANER: Thank you. I'm here
11 to make a statement on behalf of both the
12 Ohio Environmental Council, for which I'm
13 public affairs manager, and also the Green
14 Environmental Coalition.

15 I want to thank the U.S. EPA for
16 traveling to Ohio to give the public an
17 opportunity to comment on this important
18 draft report.

19 The draft report confirms that there
20 are serious problems with the State's
21 enforcement of important pollution control
22 programs. The report identifies serious
23 deficiencies with inspection, investigation
24 and enforcement programs for facilities that

1 emit air pollution. The report emphasizes
2 the low number of inspections of facilities
3 that discharge wastewater and the poor
4 enforcement follow-up on the water control
5 permits that are detected.

6 And with regard to RCRA, we think
7 the report actually overlooks some serious
8 problems, including the continuing escape
9 hatch, that the classic VAP allows program
10 participants that choose not to go through
11 the MOA-VAP to escape corrective action,
12 information gathering, and public access to
13 information.

14 To be fair, and as the draft report
15 readily acknowledges, the Ohio EPA does many
16 things right. However, Ohio EPA's response
17 to the draft report is not adequate.
18 Whereas it does identify several factual
19 errors by the U.S. EPA, overall, the Ohio
20 EPA's response failed to resolve the most
21 concerning findings of the report.

22 We believe that these problems do
23 not simply start and end at the Ohio EPA.
24 Rather, they extend to the governor's office

1 and to the Ohio General Assembly.

2 They appear to be sustained by poor
3 management priorities by the agency, an
4 apparent attitude of benign neglect by the
5 administration, and consistently inadequate
6 appropriations from the legislature.

7 The Ohio EPA has fostered some
8 top-notch programs in some areas, such as
9 the Division of Surface Waters Ecological
10 Assessment Unit, but allowed sub-par
11 programs in others.

12 Through their conspicuous silence,
13 successive governor's offices seem satisfied
14 with just-good-enough environmental
15 protection, even when it isn't just good
16 enough. When prompted, Ohio lawmakers talk
17 up clean air and clean water, but when asked
18 to stand up for more resources for critical
19 programs, the majority sit on their hands.

20 These problems need to be addressed
21 immediately with a combination of
22 substantially more resources and increased
23 oversight by the U.S. EPA. We urge the U.S.
24 EPA to require the State of Ohio to effect,

1 one, substantially increased staff,
2 resources, and training; two, more
3 inspections of permitted facilities; three,
4 aggressive and timely pursuit of all
5 enforcement actions; and, four, more and
6 better defined opportunities for public
7 participation.

8 These are excerpted. I'll turn in
9 the longer comments. Thank you.

10 MR. GONZALEZ: Thank you. We really
11 appreciate your comments. And I think we
12 have two final comments here.

13 STAFF MEMBER: 62.

14 MR. GONZALEZ: 62?

15 LINDA BARNES: Hello. My name is
16 Linda Barnes. L-I-N-D-A, B-A-R-N-E-S. I'm
17 from Waynesburg, Ohio, Stark County. I'm
18 from an area that has two C & D sites, a
19 solid waste facility, and a new proposed
20 landfill all within three miles.

21 The new proposed Indian Run sanitary
22 landfill is a site of approximately 340
23 acres with 105 acres of waste placement.
24 When filled to capacity, it will contain

1 9,500,000 tons of compacted waste and can
2 accept up to 1487 tons a day.

3 There are many potential problems
4 with the site. The western one-third of the
5 site has underground mines, which I feel
6 could make the site very unstable. There
7 are many undocumented water wells within
8 2000 feet of the waste placement and a heavy
9 populated residential area.

10 This site will be over two aquifers
11 and be approximately a quarter mile
12 northwest of the public wells of the Village
13 of Waynesburg, and about 9000 feet from the
14 Magnolia Village wells, none of which have
15 been documented.

16 There are also approximately 45 oil
17 and gas wells within a 2000-foot radius of
18 the site and an eight-inch fuel transmission
19 line which carries various types of fuel
20 from gasoline to aviation fuel.

21 This site is of great concern
22 because the items I have mentioned, and
23 because until he was recently Federally
24 indicted for dumping leachate into a creek,

1 Tim Williams was the owner of this proposed
2 site.

3 Because of my work on the other
4 sites in our area, I know without citizen
5 involvement and research, nothing will get
6 done to protect our health and environment.

7 Thank you.

8 MR. GONZALEZ: Thank you. And I
9 guess we have now our final commenter?

10 STAFF MEMBER: Number 80.

11 MR. GONZALEZ: Thank you.

12 MARC CONTE: My name is MARC,
13 M-A-R-C, Conte, C-O-N-T-E. I'm the
14 legislative coordinator for the Ohio Chapter
15 of the Sierra Club. I have read through
16 several documents pertaining to the
17 investigation of Ohio EPA's performance. I
18 documented all the commitments,
19 approximately 64, made by Ohio EPA in
20 response to this investigation.

21 I would like to submit this as part
22 of the record, and they are attached to my
23 written testimony, which I'll submit when
24 I'm finished.

1 With regard to all of these
2 commitments, how does the U.S. EPA plan to
3 make sure that Ohio EPA follows through with
4 these commitments? What will happen if Ohio
5 EPA doesn't make good on its promises? How
6 long will Ohio EPA have from the U.S. EPA to
7 fulfill these promises? And is the U.S. EPA
8 requiring Ohio EPA to take other actions in
9 addition to these?

10 One of these commitments is already
11 questionable. In both documents from the
12 U.S. EPA and the Ohio EPA, Ohio EPA has
13 committed to completing all of its TMDLs, or
14 total maximum daily loads, by the year 2013.

15 However, the story published in The
16 Columbus Dispatch on October 30th, 2001,
17 stated that Ohio EPA, quote, won't complete
18 all of the plans until 2023, ten years
19 longer than the U.S. EPA officials estimated
20 it would take to finish the work.

21 Ohio EPA is already backsliding when
22 it comes to promises of improvement. The
23 fact that budget cuts are behind the delay
24 in formulating the TMDLs is further

1 indication that the State of Ohio is not
2 able to administer and enforce Federal
3 environmental laws, especially with regard
4 to resources committed to these programs.

5 Staffing levels are another
6 indicator. Staffing in the current fiscal
7 year is lower than the preceding four years.

8 I also question whether the Ohio EPA
9 has the resources necessary to properly
10 investigate, permit, and monitor animal
11 feeding operations of all sizes in line with
12 the Federal AFO/CAFO strategy. Ohio EPA has
13 committed to requiring an NPDES permit for
14 all animal feeding operations with a
15 documented discharge to the waters of the
16 state.

17 There are approximately 125 CAFOs in
18 Ohio, the largest of these animal feeding
19 operations. To date, only five of these
20 facilities have been notified they have to
21 submit a NPDES application.

22 Does the Ohio EPA have the resources
23 to regularly inspect and investigate
24 complaints regarding the remaining CAFOs to

1 determine if they require an NPDES permit?
2 Does the Ohio EPA have the resources to
3 carry out this same policy with regard to
4 all animal feeding operations, not just the
5 largest ones?

6 Thank you. That's all I have.

7 MR. GONZALEZ: Thank you very much.
8 Thank you very much.

9 This, more or less, concludes the
10 proceedings for this session. The next
11 step, final steps -- you know that we will,
12 of course, have a lot of work to do here,
13 reviewing all the comments, and all the
14 comments will be responded to in writing.

15 Additionally, a final report will be
16 produced, transcripts will be available in
17 the repositories which are listed on the
18 agenda that you have.

19 With that, ladies and gentlemen, we
20 want to thank you very much for attending
21 this public meeting. Thank you.

22 --O--

23 Thereupon, the proceedings of
24 November 13, 2001, were concluded at 5:11

1 p.m.

2 --O--

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 CERTIFICATE

2 I, Angela R. Starbuck, RPR, do
3 hereby certify that I reported the foregoing
4 proceedings and that the foregoing
5 transcript of such proceedings is a full,
6 true and correct transcript of my stenotypy
7 notes as so taken.

8 I do further certify that I was
9 called there in the capacity of a court
10 reporter, and am not otherwise interested in
11 this proceeding.

12

13

Angela R. Starbuck, RPR

14

15

16

17

18

19

20

21

22

23

24

Professional Reporters, Inc.
(614) 460-5000 or (800) 229-0675